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PUBLICATION

OF THE

PROVINCE LAWS

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A STENOGRAPHIC REPORT

OF THE HEARING BEFORE THE

JOINT STANDING COMMITTEE ON PRINTING

OF THE

LEGISLATURE OF 1889,

ON THE ORDER INTRODUCED IN THE HOUSE BY  
MR. SHEPARD, OF DANVERS, JAN. 11, 1889,

TO INVESTIGATE THE WORK OF THE

COMMISSION ON THE PROVINCE LAWS.

1889.

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[THE FIRST HEARING, OF JAN. 22, 1889, (8 PAGES) WAS NOT REPORTED.]

## COMMITTEE ON PRINTING.

### THE PUBLICATION OF PROVINCIAL LAWS.

*Room 13, State House, Jan. 23, 1889.*

THE Committee met at half-past eleven o'clock, the Chairman, Senator Gunn, of Suffolk, presiding.

CHAIRMAN. Gentlemen, we have an order from the House, which I will read: "On motion of Mr. Shepard, of Danvers, Ordered, that the Committee on Printing be instructed to investigate the work of the Commission appointed under authority of Chap. 43 of the Resolves of the year 1865 to prepare for publication the Statutes and Laws of the Province and State of Massachusetts Bay, and report to the House the progress of said work, the probable further time required for completion of the same, the probable further cost thereof, and whether any legislation is necessary or expedient in relation thereto."

Here are four things that the order covers. I suppose the nearer we keep to that, the better and quicker we shall get on. Mr. Goodell said that Commission expired which was appointed under Chap. 43, both physically and legally, in 1866, and that the Committee ended their labors.

MR. BARNES, of Chelsea. I have investigated down in the office of the Secretary of State, and I cannot find that they presented any report, and asked to be discharged, and I cannot find that they asked for an appropriation for expenses.

THE CHAIRMAN. Mr. Goodell says that they reported in 1866.

MR. GOODELL. 1866.

THE CHAIRMAN. And there was a document on record to that effect?

MR. GOODELL. There is; I found a copy of it yesterday.

THE CHAIRMAN. Mr. Goodell has testified to what was done, and that the work was brought down to 1774. He says all the matter covering this history is brought down to 1762, and it would take three years to copy it to 1780, and have the whole printed. We got that far yesterday.

MR. SHEPARD. I have here, and, if the Committee will indulge me, I would like to call attention to the two commissions which Mr. Goodell has in this matter. This one is dated May 17, 1865, and is as follows:

## THE COMMONWEALTH OF MASSACHUSETTS.

TO TALL PERSONS TO WHOM THESE PRESENTS SHALL

[SEAL.] COME,

GREETING:

WHEREAS, By authority of Resolves of Our Legislature, — to wit, chapter forty-three of the  
 John A. Andrew. year one thousand eight hundred and sixty-five,  
 entitled, "Resolves relating to the publication  
 of the Provincial Statutes," provision is made for the appointment of "three or more Commissioners, learned in the Law and in the history of Massachusetts, whose duty it shall be to prepare for publication a complete copy of the Statutes and Laws of the Province and State of Massachusetts Bay, from the time of the Province Charter to the adoption of the Constitution of the Commonwealth," including the incidental matters and things in said Resolve specially enumerated.

Now, Therefore, Know Ye, That We, by Our Governor,

having confidence in the ability and discretion of John H. Clifford of New Bedford, Ellis Ames of Canton, and Abner C. Goodell of Salem, and reposing trust in their learning of the Law and in the history of the Commonwealth, do hereby, with the advice of the Council, by these presents assign, constitute, and appoint them, the aforementioned, to be a Board of Commissioners, to prepare for publication the said Statutes and Laws of the Province and State of Massachusetts Bay, in the form and manner, and with the accompanying references and index, enjoined in the afore-cited Resolve; and they are accordingly invested with the powers, and charged with the duties and requirements, which do or may pertain to the execution of said commission.

WITNESS His Excellency John A. Andrew, our Governor, and our Seal hereunto affixed, at Boston, this seventeenth day of May, in the year one thousand eight hundred and sixty-five, and the eighty-ninth of the Independence of the United States of America.

By His Excellency the Governor, }  
with the advice of the Council. }

OLIVER WARNER,  
Secretary of the Commonwealth.

May 17, 1865. Commissions, Proclamations, etc., 1861 to 1865, p. 406.

That commission makes no reference to the time it shall continue.

THE CHAIRMAN. There is no limit?

MR. SHEPARD. No limit of time; no, sir. Perhaps Mr. Goodell can tell us whether there was any action taken in the year 1866 or 1867, to close that commission and have another. The next commission is dated the 18th of October, 1867, and it is in substance like that, without limit, and it refers, for authority, to Chap. 87 of the Resolves of June 1, 1867. It is as follows:

#### THE COMMONWEALTH OF MASSACHUSETTS.

TO ALL PERSONS TO WHOM THESE PRESENTS SHALL  
[SEAL.] COME, GREETING:

WHEREAS, By authority of Chapter eighty-seven of the Resolves of our Legislature, approved June first, 1867, entitled, "Resolves concerning the printing of the Provincial Laws," the Governor, with the consent of the Council, is "author-

ized to cause to be prepared for publication the Acts and Laws of the late Province of Massachusetts Bay, with such of the Laws and Orders recorded in the General Court Record as are of legal and historical importance, from the arrival of the Province Charter, in the year sixteen hundred and ninety-two, to the seventeenth day of June, in the year seventeen hundred and seventy-four.”

Now, therefore, Know Ye, That We, by our Governor, having confidence in the ability and discretion of Ellis Ames of Canton, and Abner C. Goodell of Salem, and reposing trust in their learning of the Law and in the History of the Commonwealth, do hereby, with the advice of the Council, by these Presents, assign, constitute, and appoint them, the aforementioned, to prepare for publication the said Acts, Laws and Orders of the said late Province of Massachusetts Bay; and they are accordingly invested with the powers, and charged with the duties and requirements, which do or may pertain to the execution of said commission.

WITNESS His Excellency, Alexander H. Bullock, our Governor, and our Seal hereunto affixed, at Boston, this eighteenth day of October, in the year of our Lord one thousand eight hundred and sixty-seven, and of the Independence of the United States the ninety-second.

By His Excellency the Governor, }  
with advice of the Council. }

OLIVER WARNER,  
Secretary of the Commonwealth.

MR. BARNES. What is that commission?

MR. SHEPARD. The same as the other.

MR. GOODELL. Perhaps it would be better to read the resolve. “*Resolved*, That the Governor, with the consent of the Council, be authorized to cause to be prepared for publication the acts and laws of the late province of Massachusetts Bay, with such of the laws and orders recorded in the general Court record as are of legal and historical importance, from the arrival of the province charter, in the year sixteen hundred and ninety-two, to the seventeenth day of June, in the



year seventeen hundred and seventy-four.” (Remember that is 1774. That was extended to the year 1780 by resolve, 1884, Chap. 56.) “Now, therefore, know ye that we, by our Governor, having confidence in the ability and discretion of Ellis Ames, of Canton, and Abner C. Goodell, of Salem, and reposing trust in their learning of the law and in the history of the Commonwealth, do hereby, with the advice of the Council, by these presents, assign, constitute and appoint them the aforementioned, to prepare for publication the said Acts, Laws and Orders of the said late Province of Massachusetts Bay, and they are accordingly invested with the powers and charged with the duties and requirements which do or may pertain to the execution of said Commission.”

This Commission is signed by Gov. Bullock. The first is signed by Gov. Andrew. The law at that time, and, I think, the law of the present time, required that any person receiving an executive appointment should qualify under that appointment within three months from the date of the appointment.

MR. BARNES. Oh, I do not consider that an executive appointment. It is only an assumption.

MR. SHEPARD. Mr. Goodell did not qualify for two months later.

MR. BARNES. It is only a detail. It allows two men to go on. I do not call that a Commission as it reads under the law of 1867.

MR. SHEPARD. I think that is the usual form.

MR. BARNES. That is immaterial. The question here is whether the Commissioners appointed under Chap. 43 of the Resolves of 1865 have completed their labors. That is the first question for us to find out.

THE CHAIRMAN. We have the work done to 1774, Mr. Goodell says.

MR. BARNES. Mr. Goodell says that the Commission expired in 1866.

THE CHAIRMAN. 1866, he says, there is a report on file.

MR. BARNES. No report is on file. It should be on file. We could not find any.

MR. SHEPARD. Have you any use, Mr. Goodell, for these books I have read from?

MR. GOODELL. No, sir.

THE CHAIRMAN. Shall we commence where we left off yesterday?

MR. BARNES. I think we ought to. And then we will have to call in the Attorney-General to help us make the report.

THE CHAIRMAN. The last thing we had yesterday was that Mr. Goodell said he had the matter all prepared down to 1762, and that it would take three years to have it copied and printed.

MR. BARNES. Yes, sir; copied and printed.

THE CHAIRMAN. Have you any idea, Mr. Goodell, of what the expense would be?

MR. GOODELL. I have not; but I will say this: That I will engage to furnish the volumes at not less than 600 pages each, bound after the same style as the previous volumes, and delivered to the Commonwealth free of all expense; do my work during the time gratuitously. I have estimated what the cost will be to me for clerk hire, printer's work, etc., and I will furnish the volumes, if the Commonwealth will take an edition of two thousand, at three dollars per volume, precisely what they are selling them at, and give the State the stereotype plates into the bargain, provided I can have the furnishing of any extra copies that may be called for from these or previous plates, at the same rate during the time the work remains unfinished.

THE CHAIRMAN. Do you want the privilege of furnishing the extra copies?

MR. GOODELL. I only ask it until I get through, so that no other person shall interfere with the plates while I am at work. I will supply these volumes at the same rate at which the Commonwealth sells them.

THE CHAIRMAN. That includes the three years' time?

MR. GOODELL. Yes, sir; supposing the edition is exhausted and they ask for a few more. I will also make the alternative proposition, that if the Commonwealth will take an edition of one thousand copies, which is five hundred less than the edition of the first volume, and two hundred and fifty more than the editions now furnished, I will furnish them at four dollars per volume on the same terms, and give them the stereotype plates, properly boxed and marked, and have all the work equal to that already supplied,—the paper

of the same weight and quality, the dry pressing, the registering and printing in every respect as good as what has already been furnished, and the binding equally good, and I will furnish volumes of not less than 600 pages each. With regard to the extent of the work, I will say that this is the sixth volume (holding up proof-sheets of Vol. VI). That is the seventh volume published, but Vol. II. was burned in the great fire of 1872, and I have had to furnish it over again. I have actually furnished the State seven volumes.

MR. BARNES. Where is Vol. V., if not interrupting you too much?

MR. SHEPARD. Is that book (indicating Vol. VI.) already printed?

MR. GOODELL. It is already stereotyped, but not printed.

MR. BARNES. There are five volumes printed now. I have had two different kinds of information in regard to this. One was that there were four volumes printed and one in the hands of the printer, and I have been told that there were five volumes printed.

MR. GOODELL. This (Vol. V.) was printed in 1886. This Vol. VI. contains all the private Acts and sixteen years of Resolves, except the important matter of Resolves relating to the establishment of towns, precincts, and parishes, which are very important, and which have never been printed,—the titles of which only are printed in this volume. But that is thrown forward so as to put all the materials relating to each town, precinct, or parish together for convenient reference of the citizens and the Legislature, the object of that being to prevent the great expense of making particular searches by towns and cities on questions of boundary lines before the Legislature. Here are all matters relating to boundaries with the contiguous provinces of Rhode Island, Connecticut, New York, Vermont, and New Hampshire. Those all go in a volume by themselves, and take their place here by chapter in this series, each chapter in its proper chronological order, but picked out and put together; and that is one of the principles upon which the Commissioners agreed that the work of editing should be carried on, with the consent of the Governor and Council.

MR. BARNES. How much did you say those volumes would be?

MR. GOODELL. They would be not less than 600 pages.

MR. BARNES. How many will there be?

MR. GOODELL. I have given you a basis of an estimate in what I have said of Vol. VI., which contains sixteen years of resolves, together with all the private Acts, and

there are eighty-nine years in all. If they do not increase in number beyond this, it will take for the whole series four volumes about.

MR. BARNES. Four more?

MR. GOODELL. Call this twenty years, it would take four more, because it is a little more than sixty years.

MR. BARNES. There are 1600 pages in this book (Vol. V).

MR. GOODELL. I know there are. I am speaking of the basis of this calculation.

MR. BARNES. There are 1464 pages of laws.

MR. GOODELL. I made that in one volume. I wanted the public laws completed at that time, and when we come to the Revolutionary period the annotations are very voluminous. They are all in minion type, but I believe it is the testimony of all who conversed with me that those notes were worth all the labor put into them. The tables are very valuable.

MR. BARNES. You think if the State will agree to buy an edition of two thousand of each volume, that would be eight thousand volumes at three dollars per volume, you will agree to furnish them for twenty-four thousand dollars? In other words, twenty-four thousand dollars would finish the work?

MR. GOODELL. That is a matter of calculation and your own inference; but I offer this and nothing more: I offer to furnish volumes of not less than 600 pages, each done in the same manner in which this work was done, for three dollars per volume, all bound as well as they are.

MR. BARNES. Two thousand copies of each volume?

MR. GOODELL. Two thousand of each volume. Of course, I could not do it if I had not other means of support.

MR. BARNES. We are asked to consider the probable cost of finishing the work.

MR. GOODELL. You understand, then, what that means.

MR. BARNES. If we took two thousand copies of each volume, it would cost twenty-four thousand dollars; if we took four volumes, that would be sixteen thousand dollars.

MR. GOODELL. That is your own calculation.

MR. BARNES. As near as you can judge, it will take four volumes, you say?

MR. GOODELL. I did not say that.

MR. BARNES. Will you be kind enough to say?

MR. GOODELL. No, sir; I give what information I have; but I have not the data upon which to base an accurate esti-



mate. I cannot get the data within six months. I shall have to go through the whole material.

MR. SHEPARD. Could you give it as your opinion that the volumes would be less than ten?

MR. GOODELL. Oh, yes; it is my opinion that they would be.

MR. SHEPARD. Do you want to republish what have been published here?

MR. GOODELL. If any were called for that had been published, if the edition were exhausted and more were called for, I should want the privilege of furnishing those at the same rate.

MR. SHEPARD. I got the impression from that statement that you wanted to republish the whole set.

MR. GOODELL. Oh, no; only if the Legislature had exhausted one edition and wanted a new edition, it should be done by me and not by any outsider.

MR. BARNES. Are not the plates in the possession of the Commonwealth?

MR. GOODELL. Yes; there has been a second edition of Vol. II., and there were certain amendments which had to be put in. All it called for was the altering in the stereotype plates.

THE CHAIRMAN. If these plates are the property of the State, why can they not go to the state printer and have their printing done under the contract?

MR. GOODELL. The State does so. It is all done under contract now. I have nothing to do with the printing.

THE CHAIRMAN. The State now holds the plates?

MR. GOODELL. Yes, sir.

THE CHAIRMAN. What interests me is how you can come in and offer to furnish them from the State plates.

MR. GOODELL. I do not offer to furnish them from the State plates.

MR. BARNES. You want the State to lend you the plates?

MR. GOODELL. Certainly; I will agree to furnish the work, provided the Commonwealth will take two thousand copies.

MR. BARNES. He will agree to finish the work, provided the State will take two thousand copies and allow him three dollars for each volume, and allow him to have at any time back numbers if they are called for.

MR. GOODELL. Copies that the State orders, so that I shall have the control. If they want one hundred copies it will cost three hundred dollars.

THE CHAIRMAN. The State has a very low contract, and I do not see how it is possible to get it done for less than the State can do it.

MR. GOODELL. I am not bidding against the State printers. If you ask me what the probable cost will be, I can only say I have two elements with which to deal: first, my work, and, second, the printer's work. These elements are to be considered in two aspects: first, in regard to time, and then in regard to cost. Of course, I cannot pass on both unless I have the control of all of them, and then I can make my contract, and I am able to lose, if there is any loss. I am not a pauper. If the State cannot afford it, I will pay it, and I will give bonds to do it in any amount you say is reasonable.

THE CHAIRMAN. Now, if the State wants any additional copies of this work, they have to come to you?

MR. GOODELL. No, sir; they order the State printers to print them. The edition has been exhausted in two instances, and only two. One was a second edition of the second volume. The third volume is now out of print. The business went through my hands. The corrections were very important corrections in Vol. II, and that volume is now perfect. Probably there will be no others of those called for until long after my business is finished. I would like to finish this business, I have given the best part of my manhood to it with only a compensation of seven hundred and fifty dollars per year. I have ruined my health. I am trying to do the best I can to finish it, and if you gentlemen will call at my office I will show you how this great work stands; and if you have any idea there has been backwardness in the work, you can make inquiries. My correspondence with the British Public Record office took five years' time.

MR. SHEPARD. How many years have you been at work on this business?

MR. GOODELL. I have given my whole time to it since December, 1879. I have secluded myself from all society; I have hardly read the newspapers.

MR. SHEPARD. You have received, as your compensation in that time, something like twenty thousand dollars, that has been charged by you for editorial service.

MR. GOODELL. Up to 1879 my work was gratuitous. My whole pay, to the date of the last report of the Auditor, has been \$16,853.82, exclusive of two hundred and fifty dollars which was received under the first commission, which about paid our expenses. We had an average of two hundred and fifty dollars apiece, Governor Clifford, Mr. Ames, and

I, not for what we did, but merely to pay for travelling around the State, and I paid out more than either of the others.

THE CHAIRMAN. Is it your intention, under this commission, to proceed with this work down later than 1780?

MR. GOODELL. No, sir; not after the adoption of the Constitution, Oct. 25, 1780. That is fixed by the Resolve. I will repeat what I said yesterday. It will take me three years to do this work, provided I can have the control, and be responsible for it. But if a great fire should come and burn out the State printers before they could reorganize again, it would be absurd for me to guarantee that I could get it all done in three years; but I say I will, State printer or no State printer, give bonds to finish the work in three years on the basis I have given. If I cannot do it one way, I can another.

MR. SHEPARD. Do I understand you do not want to go beyond 1780?

MR. GOODELL. I do not go beyond it.

MR. SHEPARD. You have said three volumes.

MR. GOODELL. Those are the Public Acts. The Acts are of several kinds. In the first place, the public acts which the Legislature passes for the government of the whole Commonwealth,—for the whole Province. Those go through the different stages of legislation to be enacted and engrossed, and laid away, and are furnished in a series by themselves. Then come the private acts, which relate to individuals and private corporations, and are what is called special legislation. You will find certain statutes termed public acts or general acts; and acts relating to towns and parishes are called special acts. Then, there is another class called resolves, which I will show you in the Blue Book. Here is the Blue Book for 1866. The Blue Book for 1866 has acts down to page 291, inclusive. Then begin resolves, general and special, and they, with the Governor's address, which is added, continue to page 421. Now, in our work, we print the general laws by themselves, and then we take up the private acts and resolves and put them into a parallel series of the same date. This is the first volume of that parallel series, or the sixth volume of the whole work (holding up Vol. 6), and these have never been printed. If a fire should sweep the Secretary of State's office, we would lose all the acts which never have been printed relating to towns, parishes, and precincts, on which the towns depend for their existence,—all the towns excepting those established by a public act. All these laws, public and private, were adopted by the Constitution. It does that expressly, and makes them a part of the law of the land. Let me read for



you a clause from the Constitution. Article VI., Section 6, of the Constitution of the Commonwealth, reads as follows: "All the laws which have heretofore been adopted, used and approved in the province, colony, or state of Massachusetts Bay, and usually practised upon in the courts of law, shall still remain in full force until altered or repealed by the Legislature, such parts only excepted as are repugnant to the rights and principles contained in this Constitution." Now, we had to inquire first what laws had been adopted; second, what laws had been used; and third, what laws had been approved by the courts, and practised upon in the courts of law; and it is a very difficult and obscure question, involving the most critical study of the period of legislation, and the history of a great province, running through eighty-nine years. This embodies eighty-nine years of legislation, and all the varied and conflicting interests that grew out of the several wars, and last of all, the Revolution,—conflicts with the home government, which finally culminated in the Revolution. These are the laws of to-day that our judges administer,—in the compact provisions of the public statutes in regard to the establishment and maintenance of schools, the definition of the duties of officers of towns, the powers of towns, the domestic relations, the age of consent of marriage, the descent of property, the distribution of estates, and the authority of Probate Courts. There was no legislation establishing Probate Courts on their present basis before 1856. Judges and lawyers have to look back to the provincial period to know what authority the courts have. And they are referring to these books all the time in almost every volume of decisions of the judges of the Supreme Court. The definition of crimes, etc., was made in very verbose language in these old acts, and their preambles explain rules which are now compactly stated in three or four words. To know the meaning of those words the judges go back and inquire what those old laws were. These definitions of the judges, so far as the written law goes, are worked out in order to learn the implied or expressed contents of that volume. And then the large bulk of the law is the common law,—the *lex non scripta*, which is not found in the statutes; that is a vast proportion of the law the lawyers learn—

THE CHAIRMAN. It is interesting to listen to you, Mr. Goodell; but, of course, the committee understand that these volumes cover a great deal of interest. But we want to come down to the practical work of the committee. Is there anything more that we want to find out in regard to the progress of the work?

MR. BARNES. As I understand Mr. Goodell now, the publication of the public acts has been completed.

MR. GOODELL. What are called the general laws.

MR. BARNES. And now there is nothing but special laws?

MR. GOODELL. Special laws and resolves; and of those, Mr. Barnes, the resolves are in plate down to 1707, inclusive, from 1692, 16 years, stereotyped. The private acts are to precede these.

MR. MCFARLANE, of Lynn. The only expense is printing and binding?

MR. GOODELL. Yes, sir; I have all the private acts but three, I think; and I have found one of the private acts which I have been looking for twenty years. I found it recently through Mr. Bradish, who was working for me on the files of the Provincial Superior Court in Suffolk County. From the files he unearthed an act which was put in evidence in a case, which has enabled me to put it in its proper place with the others.

MR. SHEPARD. I should say seven hundred and fifty copies of each of these volumes, except the first, which was fifteen hundred, have been printed and given away,—sent to every city and town in the Commonwealth, and to all the public libraries, and to every State and Territory in the Union, and to the United States Government at Washington, and various other places as indicated in the statutes; and what were left, after such distribution, are in the document room in this building. The resolve provides that the State may sell these volumes that are left to anybody who may call for them, at three dollars per volume. That is the small price for those volumes that the State asks. Mr. Goodell asks us to take two thousand copies of each of these volumes where we have had up to the present time only seven hundred and fifty, and have a lot left at that. He now wants us to take two thousand volumes of what he is to print at three dollars per volume; and to show the demand for these volumes that have already been printed, I have the statement from the department that the immense number of seventy-nine books,—seventy-nine books have been sold in the last twenty-three years, since the thing commenced, at three dollars per volume,—seventy-nine books at three dollars per book has been the entire demand that has been made in this Commonwealth for that work. Now we are asked to take two thousand copies of what may be printed in the future at three dollars per volume. I will say, however, that, taking the whole number of volumes, including Vol. VI., at an edition of seven hundred and fifty for each volume, and dividing the cost of the work by the whole number of volumes, that they have cost the State over twenty-three dollars per volume. They are selling them for three dollars, and yet, in twenty-

three years, there has been a call for only seventy-nine books up to the present time. It shows the demand that there is for that work.

MR. GOODELL. I will say in explanation of any fact, included in that, — I do not propose to argue it, — that the first edition of Vol. II. of seven hundred and fifty copies was exhausted, and it was necessary to get a second edition, but when you go into the market to get them, it is a costly proceeding. I have a letter from Little, Brown & Company, which says, under date of January 21: "We can supply you one set of the Acts and Resolves of Massachusetts Bay, five volumes, for twenty-five dollars, and think we can supply you two sets at forty dollars. We are unable to state definitely about the second set, but can let you know to-morrow." The market price is about twenty-five dollars for a single set; and if they were not given away, I think the booksellers would take them off the hands of the State. Little & Brown offered second-hand volumes.

MR. SHEPARD. Where did they get them?

MR. GOODELL. They did not get them from me. Every set I got I bought at second-hand shops; I am one of the purchasers. I think the Commissioners have bought nearly all there were sold. I have either bought them myself or through Mr. Ames. I had traded with Mr. John Rand for six copies of Vol. IV., which he had left over. I gave him for them two sets of the first three volumes. I then made up with those I got from Mr. Rand two more sets of the four volumes, which I gave away. The other remaining four copies of Vol. VI. were taken by Mr. Ames and others at different times.

MR. SHEPARD. I want to read from the Auditor's report what Mr. Goodell has received for his four years' services. In 1885, he received \$1,950 for services, and \$138.98 for expenses, making \$2,088.98; in the year 1886, he received \$1,912.50 for services, and \$141.27 for expenses, making \$2,053.77.

MR. GOODELL. In 1886?

MR. SHEPARD. In 1886. Here is the Auditors' report.

MR. GOODELL. What does it say on the back of the book?

MR. SHEPARD. It says in here, 1886.

MR. GOODELL. That first one should be 1885, and then comes 1886. That is marked 1886 on the back. Now what does it say for 1886?

MR. SHEPARD. I will read what it says: \$1,486.32; expenses, \$89.05, making \$1,585.37.

MR. GOODELL. The Committee will find I have never pucharged over \$150 per month.



MR. SHEPARD. The report which says 1887 on the back, states the sum paid for services \$2,037.50, and for expenses \$188.41; total \$2,225.91. Thus far for the last four years. I do not find the records of the previous years, but I have a statement here, bringing this up to 1885, showing that Mr. Goodell, up to that time, had received for his services the sum of \$11,839.13. And Mr. Ellis Ames for editorial work had received \$2,926.33. In that connection, Mr. Goodell, allow me to ask you if the volumes that were purchased of Mr. Ames were included in that sum charged to him, \$2,926?

MR. GOODELL. Yes.

MR. SHEPARD. I understood that the State paid Mr. Ames \$1,000 for books they bought of him.

MR. GOODELL. For what was in his set of books.

MR. SHEPARD. What is the next item, bill of exchange for books, \$2,347?

MR. GOODELL. That is draft on London for copies from the Public Record Office. Those were the only bills of exchange I have ever drawn. The whole amount we paid for books, books to cut up for use to print from, was \$100 to the Essex Institute. The only way to get what evidence we wanted to make the acts complete was to send to England and get copies of acts and lists of acts not in the Secretary's office, and the total cost was \$2,786.60. But the \$1,000 charged the first year was wholly for acts not in the Secretary's office, purchased of Mr. Ames.

MR. SHEPARD. You bought some books in England?

MR. GOODELL. No, sir.

MR. SHEPARD. What did the bill of exchange pay for?

MR. GOODELL. For the copies from the Public Record office and matters relating to the materials used by us. The proper vouchers were sent to the Auditor for all of them.

MR. SHEPARD. Were any of these books ever sent to England?

MR. GOODELL. Yes, sir.

MR. SHEPARD. To what parties?

MR. GOODELL. They were sent to the British Museum, to the Law Library of London, to the Library of Newcastle-on-the-Tyne,—I have a list of them; I cannot recall them all,—sent by order of the Commissioners and the Secretary.

MR. SHEPARD. I find that a package of books for the British Museum and other parties was boxed up and lay in the document room for years; that they would not pay the

expense of them to have them over there. They were shipped finally through personal efforts.

MR. GOODELL. If it is important to have the evidence on that, I can show it. I think it is not material to go into that.

THE CHAIRMAN. Is there anything further we want to hear in regard to the progress of the work?

MR. GOODELL. I want to say that if there is any intention to report in favor of stopping the work, I should want the Committee to have the testimony of competent judges as to its value and importance.

THE CHAIRMAN. That might come under the last clause in the order, "whether any legislation is necessary or expedient." Now have we got the progress of the work defined to our satisfaction?

MR. SHEPARD. I have not got it to mine.

MR. BARNES. What more can you get?

MR. GOODELL. Have you gentlemen got it down that all the copies are made to 1762?

THE CHAIRMAN. I have got it down to 1780.

MR. GOODELL. All the copying of everything down to 1762 is done. All this work has been finished.

MR. BARNES. There are eighteen years' work to be done.

MR. GOODELL. This work is all picked out to 1780, and the rest of the copying, if I have the same accommodations as I have had, and sufficient force, will be done this year down to 1780. All the copies are in drawers, of which I have over two hundred, about half of which are pretty full of manuscript. From 1762 all the work has been picked out and marked for copyists. The mechanical work of copying is going on.

MR. SHEPARD. You are one of the members of the Essex Institute?

MR. GOODELL. I am.

MR. SHEPARD. Are you a member of the Massachusetts Historical Society?

MR. GOODELL. Yes.

MR. SHEPARD. Can you tell me what the date of your membership in the Historical Society is?

MR. GOODELL. March, 1871.

MR. SHEPARD. And of the Institute much further back?

MR. GOODELL. Yes; I am ashamed to say I have not



attended a meeting of the Institute for several years until lately, when I have twice been to hear lectures there.

THE CHAIRMAN. Now as to the time necessary for the completion of the work.

MR. MACFARLANE. We have the time stated in which it can be done, whether it will be done or not.

MR. GOODELL. I will give a bond to do it under the conditions I have stated. It might be well for you to report that the matter of time is of no consequence, if the state is saved the expense. It is a work they have been waiting for for one hundred and twenty years.

THE CHAIRMAN. The House will take care of that matter.

MR. SHEPARD. There is a condition about that three years, if the state will give you all the help you want? That is your private remark to me.

MR. GOODELL. I have no private remarks on this subject. What I say here is what we are to go by.

MR. SHEPARD. If you do, or agree to do this work in three years, you would require more help than you have at present, and would require prompt printing of the work which you demand?

MR. GOODELL. All of which I pay for. The state has no expense as to that.

MR. BARNES. Don't you agree to do it in three years, provided the state pays all the bills?

MR. GOODELL. I stated it once, but I will repeat it. There are two conditions implied in it. One is the condition of printing, and the other is my work. Now I cannot engage that the printing of the whole work will be done where I do not control it. I cannot guarantee it.

MR. BARNES. How long is it going to take you to do your part?

MR. GOODELL. I am editor of the work, and I must read proof and supervise every part of it.

MR. MACFARLANE. I understand Mr. Goodell can do his part if the printer does his work.

MR. GOODELL. Yes, these proofs have to be read from three to five times, and I have to keep along with the printer.

MR. SHEPARD. We ought to have some specification as to the added cost that it would involve to do it in that time. You would not give it as your judgment that with your present force, down there in the office, you could get through with this work, with prompt printing, in three years?

MR. GOODELL. I did not mention three years except wholly in connection with the offer I am making, and in no other relation.

MR. SHEPARD. You do not promise to do it in ten years.

MR. GOODELL. I do not promise to do it in 100 years where I cannot control it. Nobody could.

MR. SHEPARD. I have stated a condition here: Supposing your wants in relation to printing are promptly met, how much force, how much help or expense do you want further to complete that thing in three years?

MR. GOODELL. I should want to spend for extra clerks, a thousand dollars this year, over and above present expenses,—I should want room enough for them and should want to expend,—instead of paying my clerks \$3,451 as I did last year, I should want to pay \$4,500 and that would end all the copying.

MR. SHEPARD. And what next year?

MR. GOODELL. Nothing but for proof-reading. We would have to have perhaps, another proof-reader and another copy-holder. And then the expense would not be more than now. The appropriations from year to year have sometimes been more than double what the expense was. For instance, the appropriation last year was something like \$11,000. The expense was only about \$5,600.

MR. SHEPARD. You did not print anything.

MR. GOODELL. No, sir, we did not print anything. The appropriation was \$10,000 or \$11,000 and of that sum was spent \$3,451 for clerks and \$188 for traveling expenses.

MR. SHEPARD. There was no printing in 1887.

MR. GOODELL. A question was asked about estimates.

MR. SHEPARD. There is something here (referring to Auditor's report,) showing the cost of this work,—printing and binding vol. 5, in part, \$5,421.37 that year. Then printing and stereotyping vol. 5, in part, \$1,499.

MR. GOODELL. You can get more information about that from the state printer than from me. I do not approve their bills. I have nothing to do with that. All I have to do is to see that the work is done and report so many pages minion and so many pages long primer. May I be allowed to read section 26 of chapter 16 of the Public Statutes? "Every public officer or board having charge of any department of the public service requiring an expenditure of money from the state treasury, other than for the payment of salaries, shall on or before the 15th day of December in each year

submit to the Secretary of the Commonwealth estimates in detail and in tabular form showing the amounts appropriated for the current year and the amounts required for the ensuing year with notes explaining the necessity of any new, increased, or decreased expenditures, and citations of Statute provisions relating to said expenditures. The Secretary shall embody such estimates together with those for his own department in one document, which shall be printed and laid before the General Court on the second Wednesday of the succeeding January for its examination." I did not feel at liberty to disregard that duty to the Secretary although it involved the difficulty of my estimating the printing account and I could not say how much they would print that year. Of course no one knows the extent of the work of the state printers. I know what tried and true friends of the Commonwealth they are and how well they have done their duty and I regret there ever was a change.

THE CHAIRMAN. Are you satisfied, gentlemen, on this matter of cost and what is estimated?

MR. SHEPARD. We have no estimate of the probable cost have we?

THE CHAIRMAN. Mr. Goodell makes an offer to the state. That is the only definite thing I see.

MR. SHEPARD. We want to know if we can learn something of the probable cost of doing the work as it is being done. This other matter is one I have no idea the state will entertain.

THE CHAIRMAN. Suppose the state, Mr. Goodell, went to the state printers and did what you propose to do, have you any idea what the expense would be?

MR. GOODELL. I have not, sir. I have only estimated the bare cost without calculating anything for my own compensation, so that nobody will say, as the Record said last evening, that it was "Goodell's Snap." I don't think anyone will say I have made much more than a fair compensation.

THE CHAIRMAN. I think the members of the committee better see the state printer. Suppose we ascertain a little further about the cost. Now, while Mr. Goodell is here, I should want to know what legislation is necessary for the future, or whether any is expedient. What do you think about the matter, Mr. Goodell?

MR. GOODELL. I really don't know. I never had any part in the legislation either way, as to the Commission or making any provision for it, except in 1884, when Judge Aldrich of the Superior Court called my attention to a fact I

knew before, and which I wished some member of the legislature would show, that our two Commissions, one in 1865 and one in 1867, did not contemplate the same business. One was to terminate in 1780 and the other in 1774; and at his suggestion, in the course of a correspondence begun by him with Mr. Ames, a resolve was passed to carry the whole work to 1780, where it should have been. I drew that resolve, that is all. I decline to advise on any matter of legislation. I stand neutral. If the Commonwealth thinks I have been unfaithful to my duties, it should remove me. If, on the other hand, it finds I have been a faithful officer, I think it is my right, as a citizen, it should say so. If it finds I have injured my health, and have worked from ten to one o'clock at night daily, and all day Sunday at times, in preparing this work for the state printers, when they were working, I want that to appear. I have lived the life of a hermit; I have secluded myself from all society and all engagements, and have spent my time and energies on this work, and what I have asked from the state has been but \$750 per year. After having been admitted to the bar, in 1852, with pretty fair prospects for earning at least double that amount in my profession, it is absurd to say that I have prolonged this work for profit.

THE CHAIRMAN. Supposing you were a disinterested party, from what you know of the value of this matter, would you advise the continuation and completion of this work?

MR. GOODELL. If I were a committee man, and any one was so foolish as to offer to do that work at \$3.00 per volume and furnish the State the plates, I should say there is no reason why the offer should not be accepted, if the man would give bonds to do the work. I would accept his proposition and silence the discussion, and take it out of any connection with the Crispus Attucks monument. I wish to say one thing. You ask me to compute the cost. This would involve arduous labor for six months, for which I should receive no compensation. It is no part of my duty to make that. I have got to go through extracts from 300 volumes of manuscript of from 500 to 600 pages each; and I have got to count the lines and words, and estimate how many pages of printed matter, and estimate the number of volumes that would make. This cannot be done by any of my clerks, as a clerk is utterly incompetent to decide what shall be inserted and what rejected.

THE CHAIRMAN. Will you kindly tell us what the expense of editing that would be?

MR. GOODELL. Under the conditions I have stated, I give



my services to the state. What other people would charge, I have no idea. If you got a good lawyer for it, he would charge \$5,000 per year; and he ought to have it.

THE CHAIRMAN. How many volumes do you think that would make?

MR. GOODELL. I have been saying I could not state it.

THE CHAIRMAN. Would it make five volumes?

MR. GOODELL. I think it would; but do not take any testimony as to the number of volumes from me. This volume [referring to Vol. 6] takes in sixteen years and all the private acts. If they proceed at the same rate, it will not take more than four volumes more. That is all I can say.

THE CHAIRMAN. We have your estimate.

MR. BARNES. The resolves are more than private acts?

MR. GOODELL. Do not hold me responsible for inferences you draw. Give me six months to make a computation, pay me for the trouble, and let me suspend my work in the office while doing it, and I will come within 100 pages of what it will make.

MR. M. M. WESTON said that he came before the committee as a member of the bar and in behalf of some citizens and because of his own interest in this work to speak upon what he considered a very great subject. He thought if it was the purpose of the order to have any legislation to stop this great public work that there ought to be a public hearing upon the subject, say a fortnight hence, so as to give him an opportunity to present to the committee evidence from judges and members of the bar and other persons capable of understanding the value of this work. He would be very glad to present evidence upon that part of the question before the committee to show that they ought to recommend no legislation which looked toward the abolition or stopping of this work.

MR. BARNES. Mr. Weston, do you think that any average committee of the Mass. Legislature—I say nothing of what this committee will do,—where they found a piece of work in which the state had invested over \$100,000 and which was but one-half or two-thirds completed, would recommend the stopping of it, or recommend the expenditure of \$35,000 to \$50,000 to finish up the work?

MR. WESTON. If this resolve had any purpose it would be largely toward the abolition of this work because it is perfectly evident that if this work is to be done at all it cannot be so well done and so cheaply done as it has been. The

cost is not a part of the matter in which I am interested at all as a citizen.

MR. BARNES. We find, on investigation, that the expense of this work up to the present time is \$107,000; and you have heard from Mr. Goodell's testimony what remains to be done?

MR. WESTON. Yes, sir.

MR. BARNES. And we have been trying to get at what it will cost to complete what remains to be done.

MR. WESTON. I understand the last part of the order looked to some recommendation as to future legislation. And if any recommendation is thought of which looks to the stopping of the work,—that part of the work in which I am interested as a citizen,—I should like to have an opportunity to present evidence as to its great value.

THE CHAIRMAN. I would say that the committee have not considered that matter at all. We think, however, we shall have another hearing.

MR. WESTON. If the committee will consider that matter, and want to hear any evidence on that part of it, then I would like to have an opportunity to present it, because this is a matter of very great public importance.

[ADJOURNED TILL THURSDAY, JAN. 24.]

## COMMITTEE ON PRINTING.

### PUBLICATION OF THE PROVINCIAL LAWS.

*Boston, Jan. 24, 1889.*

The committee met at half-past eleven o'clock, Senator Gunn presiding.

THE CHAIRMAN. Is there any gentleman present who wishes to say anything about the provincial laws?

MR. GOODELL. I would say, Mr. Chairman, in regard to the length of time and probable expense of finishing this work, that I am as anxious as the committee can possibly be to arrive at a satisfactory solution of the two questions. But I spoke yesterday of the difficulty of arriving at an exact estimate, and without an exact basis for an estimate there would be various interpretations and various ideas as to the value of a calculation.

THE CHAIRMAN. Our order is as I understand it, a sort of general order.

MR. GOODELL. Yes, sir, I will show you the difficulty to-day. In the first place, in regard to the subject of delay, the extraordinary causes of delay aside from the time necessarily incident to the carrying on of a work of this magnitude, were :

*First*—The great fire in Boston in Nov., 1872, by which the second volume (which was in the hands of the binder) and all the stereotype plates of that volume, and of Volume I, were totally destroyed. This not only rendered it necessary for the editor to go over all his work on Volume II, a second time, but the time required to re-organize the printing office still further protracted the work.

*Second*—The transfer of state printing from Wright & Potter to Rand, Avery & Co., by which the latter were obliged to get an outfit of rules and type adapted to this and other state work and to acquire familiarity with the work.

*Third*—The change back to Wright & Potter, or rather, to the Wright & Potter Printing Company, who are now the state printers, and who, having given up the state work while Rand, Avery & Co., held it, were obliged to refurnish their printing-office with the proper rules, type, etc., adapted to the state work, and with which, under their former contract, their printing office was completely equipped.

*Fourth*—A second fire, by which the composing room of the Wright & Potter Printing Company was gutted and all work in the hands of the company necessarily retarded.

Although the fire might not destroy any of my material, it might disarrange the office so that it would take some time to reorganize and go on. When the legislature is in session you know very well the state printers cannot do much of any work. When the warm weather comes, the printers begin to work, but during the month of August it is impossible to employ clerks who will work through that month. They insist on having four weeks' vacation. They have a right to leave the city then. My clerks insist on that or they will resign, so I have to go without them in the month of August. I am the only one, usually, who works in the month of August, in my office.

THE CHAIRMAN. Taking the risk of fire and the difficulties attending clerical services we should like to know what time it would take, judging as nearly as you can, to complete the work? You said yesterday three years, I think.

MR. GOODELL. I said three years under certain conditions.

THE CHAIRMAN. What is the least time it would take to finish that work up?

MR. GOODELL. I stated three years under certain conditions. I would undertake to complete the work in three years, provided the Commonwealth will contract to take an edition of 2,000 copies of each volume at \$3.00 per copy. I will not only furnish the copies, but give the stereotype plates. In that estimate I put nothing for my own compensation. I estimate the mere cost to me.

THE CHAIRMAN. You bear all the expense?

MR. GOODELL. I bear all the expense and have no compensation for my services. I give them for three years. I also propose that if 2,000 is too large an edition, to give the Commonwealth 1,000 copies of each volume and the plates for them at \$4.00 per volume; and if this contract is made, of course I can go to Danvers and contract with Mr. Shepard, if I choose, and have him work for me all the year round; or, I can go anywhere else, and I am not then obliged to go to the state printers,—who are probably doing the very best they can under the circumstances,—and await the convenience of their office. No doubt the state made a low contract with them. That is the condition on which I say I will give bonds to complete the work in three years, because, if necessary, I will have two or three editors and more proof-readers.

THE CHAIRMAN. You think then that the material you have already prepared will make about four or five volumes?

MR. GOODELL. Now, with regard to that here is a thing I wish to call your attention to, because you, as practical printers, will see how difficult it is to estimate. Here is an order passed to establish the town of Framingham. [Holding up some papers.] It has never been printed, and yet it is the only basis or foundation of that township. Now, under the resolves of the legislature under which we were appointed, it is necessary for me to take into consideration all matters relating to the establishment of this town, including a map of the town. Now, I have got as editor to pass upon the amount of this material to go into the volume. This is but one item. There are hundreds of these. After deciding what shall be retained and what shall be rejected, I have to count the number of lines and the words in each line to find out how much that will take in minion and how much in long primer. Now, when I have made it clear to your minds what the difficulty is of estimating, I will add that it will take six months to make that computation and for this time taken in



forming an estimate the law makes no provision. I noticed at the hearing yesterday two gentlemen of the bar one of whom I never saw and whose name I did not know until yesterday, Mr. Weston, who is in the office of Mr. Sidney Bartlett, and who was here representing some members of the bar. Another was my friend Col. Thomas W. Clarke, whose knowledge of the law and legal antiquities is very extensive and whose standing as a patent and railroad lawyer is very high. Mr. Clarke kindly accompanied me to the basement after yesterday's hearing and stayed with me until half-past six o'clock and went over all the materials collected by me, and he has made an estimate. I disclaim any responsibility for his estimate, but at the same time let me say that I do not know a man whose knowledge of typography and of this business and my editorial labors better qualifies him for making an estimate, and whose estimate I would sooner accept than his. I have no objection to his making the statement to the committee, but I wish to say that my method of estimating is the true one, and when I make an estimate I stand by it. Still, I have no doubt that the estimate he made is as accurate as any living man could make with only the same data before him. I have shown him everything, explained everything in detail. He has seen all my drawers and their contents, and I have given him a chance to compute on the basis of the work already out. He has made a careful estimate, but still I do not stand by it or offer it as my estimate. Let it be distinctly understood that I do not come here and say, I have a man whose estimate I offer. I only ask him to state to you what he stated to me in order to help you to come to the conclusion which you desire to arrive at. I can say honestly that I do not think this committee or I can find any man better qualified than he is to make the estimate that you call for. With those data an exact estimate cannot be made in the thorough manner which I should wish. I can do that if the legislature wishes me to take six months' time for substantiating the estimate.

**THE CHAIRMAN.** You say it will take six months to find out what you want to print?

**MR. GOODELL.** I estimate it will take at least that amount of time.

**THE CHAIRMAN.** You say it will take you six months to revise the crude material to see what you want of it.

**MR. GOODELL.** That is a very fortunate statement of the whole matter. I could not improve on it. Now Colonel Clarke says he has been sitting up late finishing the estimate. I have heard from several members of the bar who offered to

come here and give their opinions, and I said, no, the committee wants an approximate estimate, and Colonel Clarke's testimony is better than my own, as I certainly would not have time to make an estimate such as I would be willing to stand by.

THE CHAIRMAN. For the satisfaction of myself and the committee I wish to ask a question. There is some question about the renewal of the authority. You are satisfied, if I may so express myself, that that renewal of the commission was perfectly legal and with due authority.

MR. GOODELL. Certainly.

THE CHAIRMAN. That is the commission of 1866?

MR. GOODELL. 1867; the same session that passed this act passed an act extending the rule of qualification to certain commissioners who were not required to qualify before that year. On that occasion I qualified within three months of the time when I received notice of my appointment. I was appointed the previous October and there was some delay before we got our commissions. Mr. Ames, one of the best lawyers of Massachusetts, said that that law did not apply, that the commission was a form, and that although our duties commenced anew we were not commissioners in any sense, but merely agents of the Governor and Council; that we had no authority to contract; that the Governor was the contracting party,—under the rule what one does by another he does by himself, the Governor was the contracting party, and he, Mr. Ames, refused to qualify. I qualified in February, I think, and the date of my commission is October. I think I received my commission late in January, 1868.

MR. BARNES. I am glad to hear that admission that there was no commission.

MR. GOODELL. I simply state there was a new commission. My point is that it does not matter what the name of the authority was, we had made a report which had been accepted, we had been discharged and we had been paid for what expenses we incurred.

MR. BARNES. Have you that report?

MR. GOODELL. If the committee would like a copy of that report I will put it into their hands. It is not in the archives, it is in the Council Chamber. The Secretary is Register of the Council as well as Secretary of the Commonwealth.

MR. BARNES. I went in there for it originally and they referred me to the Secretary of the Commonwealth. Now I

will go back. I will say to my friend that he has got that on his files.

MR. GOODELL. We concluded not to proceed on this matter until we received a letter from the Governor to proceed and when the order came in writing,—I think I have it, either I or Mr. Ames had it,—we began under that order to do our work in collecting these materials which we have since used for the printer.

THE CHAIRMAN. Governor Bullock signed that second commission.

MR. GOODELL. Governor Bullock. Our labor began in 1868 on this work.

MR. MACFARLANE. We have got to the probable time in which it will be done.

MR. GOODELL. Now in regard to the time this work will be done in, that is also embraced in Colonel Clarke's estimate; but I will say in order to finish the copies from 1762 to 1780, if I do it I must have sufficient room for ten more clerks, and if I hire these out of my own pocket I shall not have to get them to pass the civil service examination, and I can hire them for six dollars per week. It will take ten clerks six months at least, and then the whole work will be done. But those clerks will cost \$1,200, and then the copying is all done. I will be willing to engage to do it for \$1,000. That is a temporary addition to our present force to finish the copying, so that if I die and the Secretary of the Commonwealth shall succeed to me in the editorship of this work, as the Transcript of last evening states, he can go to work to edit it.

MR. SHEPARD. Have you ever at any time within eight or ten years given to anybody in writing or verbally a definite statement as to the time when you would have this thing done?

MR. GOODELL. Repeatedly; I cannot recall particularly. They are all in writing somewhere. I have given them to different officials, and that is what makes me so cautious about a statement now. Circumstances beyond my control have prevented it, but if the circumstances were all within my control I could do it, and that is why I insist that if I am to be held to a promise I must have the control,—and it is reasonable, is it not?

MR. SHEPARD. Some statements were submitted here yesterday as to the cost of this business up to the present time and the various parts of it. This is a transcript made at the Auditor's office showing the different parts of that sum, one hundred and six thousand eight hundred and eight dollars and thirty-three cents that this work has cost up to the present

time. It varies considerably, or seems to, from your figures, although yours were not brought up to the present time as this is. We have here, paid to Ellis Ames \$3,226.33. This brings it up to the first of the present year.

MR. GOODELL. You read yesterday that it was \$2,926.33.

MR. SHEPARD. That is made in something which you disclaim any authority for. There it is given as \$2,926.33. Here it is given \$3,226.33, in two items, \$1416.33 and \$1810. Bills to that amount have been audited for Mr. Ames. For yourself \$18,973.82.

MR. GOODELL. There is no charge for any year of over \$1,800.

MR. SHEPARD. I made the statement that you had received about \$20,000.

MR. GOODELL. For what?

MR. SHEPARD. For services on the matter of this work.

MR. MACFARLANE. I say about \$20,000.

MR. GOODELL. Up to 1888?

MR. SHEPARD. My statement embraced what you had received up to the time which is here,— within \$123 of what I said. It was \$20,000.

MR. GOODELL. Have you items from year to year there?

MR. SHEPARD. They are not specified. Then these other items, traveling expenses, etc., have been \$3,323.34, mostly for your own travelling up and down, not including this year.

MR. GOODELL. There is a mistake there. The traveling expenses were \$1,553.38.

MR. SHEPARD. Here is something from your own figures given in your estimates for the present year.

MR. GOODELL. Those are estimates.

MR. SHEPARD. They are your own figures,—compensation of editor for services and traveling, \$1,800.

MR. GOODELL. I used to pay \$100 and I now pay \$80 for a ticket to take me back and forth between here and Salem. Then I have had to go to various counties in looking up their records. Three different times I have been to Taunton during this month to look up the Bristol County records in the Registry of Deeds, the Probate Office and the office of the Clerk of Courts for matters relating to a private act. Of course that is traveling expense. But I made an estimate that it would cost about \$150 to do the traveling I have to do about the state in pursuit of this work; and I have spent out



of my own pocket five times as much as I have made in the return in some years.

MR. SHEPARD. There are \$3,323 charged. Mr. Clifford was paid \$150, Ira J. Patch \$616.90, printing and stereotyping.

MR. GOODELL. What year is that?

MR. SHEPARD. I do not know the year. No year is given here.

MR. GOODELL. That is eleven years ago.

MR. SHEPARD. The printing, stereotyping and binding have cost \$51,304 and clerical assistance \$2,700, bills of exchange \$2,247. 21.

MR. GOODELL. Up to date the bills of exchange and book I have bought cost \$2,700.

MR. SHEPARD. What was the price of that book you got of the Essex Institute?

MR. GOODELL. \$100. That is a valuable book. No collector of such books would sell it for \$500 to-day.

MR. SHEPARD. I submit those figures to make my statement of yesterday clear.

MR. GOODELL. These are figures of the Auditor's report.

MR. SHEPARD. You make this statement that you had nothing to do with those estimates.

MR. GOODELL. Nothing to do with the estimates?

MR. SHEPARD. From year to year. I asked you if you made the estimates to go on from year to year and you said you had nothing to do with them.

MR. GOODELL. No, sir, I have said right straight through that I filled out every estimate sent to me. I have never changed that at all. I am working under section 26, of chapter 16 of the Public Statutes. Those estimates I always make. I have nothing to do with the printer's estimates I am obliged to make.

MR. SHEPARD. Don't you give to the Auditor a statement of what you estimate it will cost?

MR. GOODELL. I send to the printers and usually ask Col. Crockett who is the foreman, or agent of the state printers.

MR. SHEPARD. I certainly got the impression that you said that.

MR. GOODELL. You ought not to have got it.

MR. SHEPARD. I asked from what source you could get it and you said the Secretary sent down blanks for you to fill out.

MR. GOODELL. I read the statute yesterday.

MR. SHEPARD. And then in relation to the new annex and finally you said what you gave to the surveyor.

MR. GOODELL. I can only say, Mr. Shepard, in regard to that, that some boys called at the office in my absence and wanted to know what this department was called. When my clerks informed me of that I told them to say that it was no fixed office, but a commission. "What is the size of the room?" they said. "We are down here to make drawings of the interior of the State house just as it is and we have to reproduce it." I learned afterwards that they had even got the size of the balusters up-stairs. When the man was about there he said "What more room should you want if you had the accommodations you desired?" I said again, "It is absurd to take any measurements for me. I stay here so as to be near the Secretary's office. I did my work formerly for years and years in the Court House at Salem. If these were permanent quarters I should want a room large enough to swing a cat in. I should want a room for proof-reading, and I suppose any one succeeding me would want a private room in which to hang his clothes and room enough for his books and papers." In this way I suppose the report was made. I have never seen the man since. I could not refuse the information, but I gave it with the special caveat that I never thought or desired to occupy rooms in the annex. I said "I shall not be connected with this commission by the time that annex is made, so that if the room is made it will be for somebody else than me."

MR. SHEPARD. Now Mr. Clarke will be heard.

MR. GOODELL. Mr. Clarke comes here voluntarily and I am sure I am greatly obliged to him.

Mr. Chairman, THOMAS WILLIAM CLARKE, ESQ.

~~MR. SHEPARD~~ : I was satisfied yesterday that the committee wanted an *estimate* and that Mr. Goodell owing to his familiarity with the work was practically unable to get himself off from the work to make anything but a *calculation*, so I went down with him, knowing something about Mr. Goodell's way of doing work and something about the work that he had to do, to make as near an estimate as I thought could be done with the material that there is now on hand to enable anybody to get at the thing, and I itemized it in this way : Mr. Goodell's compensation of late years has been at the rate of \$1,800 per year for an employment which takes practically the whole of his time. 2d, his office establishment necessary to the work of editing requires his present force of permanent clerks. They were required last year. He has one clerk at \$1,000 per year, one clerk at \$660, one clerk at \$600, one messenger at \$275

and the incidental expenses of the office which you will see enumerated at \$125.

MR. SHEPARD. Are there any clerks in there that are paid \$1,000?

MR. GOODELL. One clerk.

MR. CLARKE. One clerk.

MR. SHEPARD. It is not stated in the Auditor's report.

MR. CLARKE. That makes \$2,600 for what you may call the establishment of the office. The third item is for the present year. There is much copying to be done to prepare matter for the press and for editing. This can most cheaply be done by contract by temporary clerks not regularly classified under the civil service, employed temporarily, or to be done by typewriters. Everybody who has much copying done knows you can contract it out. If done in this way the cost would be less than \$1,500. I make this on Mr. Goodell's basis of twenty-six weeks at \$6 per week for ten clerks, \$1,560. I make it within rather than outside \$1,500. If done by clerks at \$500 per year it would probably cost more and last longer than a year. Therefore a fair estimate for the present year is, salary of the commissioner \$1,800, clerk hire and office expenses \$2,600, copying to be done by such means as the superintendent may decide, \$1,200 to \$1,500, making \$5,900 in all, substantially that. There is another item mentioned later on. The editing and issuing of the volumes can with ordinary business relations between the editor and printers be done and ought to be done in 1889 1890 and 1891. With a good deal of friction or delay in printing it might take the whole or part of the year 1892. The estimate therefore for the years 1890, 1891 and 1892 perhaps, would be: salary of the commissioner \$1,800, clerk hire and office expenses \$2,600, making \$4,400. Then to recapitulate: the copying and editing and carrying through the press for 1889 would be \$5,900; 1890 \$4,400; 1891 \$4,400; . . . total \$14,700, and possibly the whole or part of another year added, \$4,400, making \$19,100. The cost then, other than printing, would be from \$14,700 to \$19,100. That is as near as anybody could compute it to be done for, certainly coming within \$19,000 and probably costing but \$15,000.

MR. BARNES. Having completed the year 1889 and got the copying done, why would there be occasion for so many clerks during 1890 and 1891?

MR. CLARKE. There will be need for the three permanent clerks, because in carrying the matter through the press everything has to be done with absolute accuracy, and in reading



a work of this sort, a law book, you begin the proof-reading by reading from copy. That requires one copy-holder. That is the galley proof. Then the galley proof is sent back to the printer and corrected, and what is called the first revise comes back, and then you take the original manuscript with one copy-holder, the galley proof with the first copy-holder and the first revise held by the editor. Then the first revise comes back and if it is all right it is put into foundry proof and the proof from the plate comes back and the copy-holders are then three in number, one holding the original manuscript, one holding the first revise and one of them the galley proof in order that the responsibility of the corrections may rest where it belongs, and in order to see that everything has been put into the foundry proof, because in the transfer of plates from the printer to a type founder's or to stereotyper's it is not a very uncommon thing for a form to go to pieces and for a line to be misplaced or something of that sort by being carelessly restored, so that a book of this sort must be absolutely without errors, if it is capable of being accomplished, and therefore you need really three copy-holders in order to keep this thing going. Now suppose the work were going on from day to day and the printers were furnishing ten pages a day there would be a galley proof of ten pages, the first revise of ten pages and maybe, a second revise also, but one revise anyhow, and a foundry proof and perhaps a plate proof to examine to see that it had been properly shaved and fixed,— that the mechanical work was right. There would be three proofs of ten pages each to examine every day. Well, to examine them with the absolutely critical eye that this work requires, the ten pages would take,— to read as the proof of a newspaper is read,— and this has to be read with a very critical eye,— an hour for ten pages. You cannot do that kind of work faster than ten pages an hour. That would be pretty good work. And that would take three hours of very careful and close attention by practically the whole force in the office every day. And that kind of attention cannot be continued, ought not to be continued, more than about an hour at a time. It is the work of an artist in painting, almost. He has to have rest, intervals of rest.

MR. GOODELL. If Col. Clarke will allow me, I will perhaps, add something which will make this clearer. We are required not only to print the original but to collate it with all other copies of the same documents. Now in the first place we copy from the General Court records. There are two series of these records. One is deposited in the State Library and one in the office of the Secretary. Then the original re-



solve is in the archives. Now the copy is made in the first instance from the copy in the Secretary's office. When we come to the proof-reading it is necessary to critically compare each one of those three. Besides this work, which is gone over and marked and the differences noted, there are marginal notes which can only appear when the matter is in page. And that requires absolute accuracy, and if you look in the volumes you will see words put in brackets to denote differences as stated in the preface, and the marginal notes are inserted between the two readings. And sometimes even then errors are made which are corrected in subsequent readings. These errors are oftentimes very important, as in the instance of the wicked Bible, so-called, where the word "not" was omitted from the seventh commandment, so that it read "Thou shalt commit adultery."

MR. CLARKE. Now the estimate of what the work will amount to. At the rate at which the resolves to, and including, 1707, have been issued the remainder of the period would take four volumes of six hundred pages each, besides the one in the office, but this rate rapidly increases particularly in the Revolutionary period when there was no separate Executive, and, in imitation of the ordinances of the Long Parliament, most of the legislation was by resolves. The resolves from 1770 to 1780 (I state this from my own familiarity with that legislation without carefully looking it through), constitute more than one-half of all the resolves of the period of the "province" and "colony" from 1707 to 1776 and of the "state" before the Constitutional period. It also seems that the editorial work on this part of the work, from 1770 to 1780 must increase. It is a very important period and there is a vast quantity of material, official material in the English archives and elsewhere that goes to illustrate that thing. It will not be safe to estimate the unprinted matter at less than eight volumes of six hundred pages each, or in other words, four volumes of the size of the present five, about twelve hundred pages each. One of them contains something less than one thousand pages, I think, and one of them is as high as sixteen hundred, but the average is about twelve hundred pages. The printing estimate would then be for the composition, correction and plates of eight volumes of six hundred pages each, with maps and illustrations for which an allowance must be made. Say eight volumes of six hundred pages each of which I estimate two-thirds of the matter will be in long primer and one-third in minion. That is rather more minion than there is in the books already published, but the notes must be more volum-

inous than those in the other volumes considering the period they cover.

MR. SHEPARD. It costs more for composition where you have more of the smaller type.

MR. CLARKE. That is for the printers to say. I mean that one-third of the *matter* will be in minion and two-thirds in long primer. I have made no figures as to the cost of printing. That depends on the contract the state may have. This comes under the general state contract.

MR. GOODELL. I think the state contract is very low.

MR. SHEPARD. In the latest report of the auditor the chief clerk's salary is stated as \$750. Was that for the last year?

MR. GOODELL. My chief clerk is an extremely useful person, familiar with the French and has some knowledge of the Latin language. I have to depend on her for translations, etc., and she fully understands my editorial work. She asked for an increase of pay and I could not increase her pay until she passed the civil service examination. She gets now the same compensation that the librarian's assistant gets, \$1,000 per year. She passed the civil service examination and was nearly perfect except in the matter of handwriting. She got nearly ninety-six per cent, and since that her salary was raised to \$1,000. She began this last year and she has had two payments.

[ADJOURNED TO TUESDAY, JAN. 29.]

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## COMMITTEE ON PRINTING.

### PUBLICATION OF THE PROVINCIAL LAWS.

*Boston, Jan. 29, 1889.*

The Committee met at half-past eleven o'clock, Senator Gunn presiding. Miss Adams was the first witness called.

MISS FLORENCE W. ADAMS.

THE CHAIRMAN. The committee desires to hear Miss Adams. We would like to know from Miss Adams when she was first connected with this work of editing the provincial laws,—in what year?

A. In December, 1879.

Q. How long a service did you have?

A. I was there about eight years when I was taken sick in October, 1887.

Q. What part of the work did you do?

A. Well, I did general clerical service.

Q. Was it an important part of the work?

A. I suppose so.

Q. In your judgment was the work prosecuted with proper expedition or rapidity?

A. Well, it was not my duty to say. Perhaps if I were conducting the work I would have been a little more expeditious, but I did all I could, as well as I could, and as fast as I could.

Q. What is your view in regard to the general prosecution of the work. Was it done as expeditiously as it might have been done?

A. Perhaps if our head had been there it would have been a little different. We were like sheep without a shepherd part of the time.

Q. (By MR. BARNES.) Well, when your shepherd was there did it require your whole time?

A. It required our whole time, yes.

Q. You did nothing else but work steadily at that?

A. Yes; our head required us to do certain things, and we did them under his direction. I stayed during my office hours. Most of the time I worked outside of office hours.

Q. (By MR. SHEPARD.) Did you for the copy of this work take the printed pages?

A. Very little.

Q. How much of it was in original manuscript copy?

A. I could not tell the proportion. The notes material was all manuscript.

Q. But the laws were generally printed?

A. I would not say generally; some of them were. We had quite a lot from manuscript.

Q. Did you go back and take the original engrossed copies of all those laws and compare them with the printed laws?

A. Yes, sir, and indicated the differences in spelling, etc.

Q. That is, if a word was misspelled in the engrossed copy you carried that into the present volume?

A. We did.

Q. If a word had a capital letter at the end instead of the beginning you put it in this printed matter?

A. Not in the acts.

Q. If the word Committee, for instance, was spelled Com<sup>tee</sup>, the word was printed in that way?

A. We did it in the same way. We used straight marks sometimes for the curves?

Q. That was a considerable part of this work?

A. We were told to pay attention to it.

Q. That consumed, I presume, a good deal of the time of this commission in making comparisons with the original?

A. That was a good deal of our care,—the accuracy of the the work.

Q. Were there many errors discovered between the originals and the printed copies?

A. Some few. The printers did not always make the contractions. I mean the original print and that showed the difference in the reprint between the original print and the engrossment.

Q. Where did you find the engrossment? In the Secretary of State's office?

A. Yes, sir, I do not suppose I can give you any information about that. You can find the volumes. You can see how much was printed and how much copied in manuscript.

Q. Did the printers delay you any about the printing?

A. The printer, I guess, can tell you more about that than I.  
I. There was a good deal of complaint.

Q. There was complaint in the office?

A. There was a good deal of complaint. The printers arranged our work with other work. I know sometimes they called for copy and we did not have it ready.

Q. There was some complaint on each side?

A. That was my opinion, there was a little complaint on each side,—some friction.

THE CHAIRMAN: Any other questions, gentlemen?

Q. (By MR. GUNN). Do you think this work as you observed it, was prosecuted with promptness?

A. Well, I think at times we had side issues.

Q. (By MR. SHEPARD). Do you know that handwriting? [Showing her copy of Commissioner's report to the Governor and Council.]

A. I have seen it.



Q. Who was that written by?

A. Mrs. Moore.

Q. When was she in the office?

A. I think about 1884 she was taken in. She was the last one to come into the office.

Q. That is a copy of the report said to have been made to the governor and council in 1867 describing the work of the first Commission from 1865 to 1867. Mr. Goodell has told us that the report of which this is a copy was made to the governor and ought to be on file. It cannot be found, and this he submits as a copy of that report. It is signed by John H. Clifford, Ellis Ames and Abner C. Goodell, all in Mr. Goodell's handwriting, and there is no date to it. This was made, this lady thinks, by some one in the office not earlier than 1884.

Q. You commenced in that office as soon as the office was established in Boston?

A. Yes, sir; under the Adjutant General's room.

Q. What was the progress of the work when you began on it?

A. There were three volumes printed and distributed and there were the plates for two years, 1757-1758 and 1759, but the notes were lacking. There was some material selected and copied. Previous to that time I know nothing of the work.

Q. (By MR. BARNES.) When you commenced there how many clerks were in the employ of Mr. Goodell?

A. Three clerks; we began on the same day.

Q. Prior to that there had been no employes?

A. I don't know anything about the time prior to that.

Q. (By MR. SHEPARD.) Three volumes had been printed. In the preparation of the work were copies bought of Ellis Ames?

A. He brought in a number of printed acts of the Revolutionary period, from 1775 to 1780, probably half of them.

Q. In the preface to the first volume and also in the message of Gov. Andrew of 1865 it is said that the only absolutely complete copy of the province laws was owned by Mr. Ellis Ames?

A. I don't know anything about that.

Q. I find the first work the commission did was to purchase from Mr. Ames, he being one of the commissioners, for \$1000 that set of books. And here is a statement of that department during the first two years. In 1866 they paid Mr. Ames \$1000 for books. In 1867 Mr. Ames drew \$300, Mr.



Goodell \$300 and Mr. Clifford \$150. That is the expense of the commission, so they spent \$750 to buy those books.

MR. BARNES. I would like to know who these young men (alluding to two reporters) represent here. My attention was called yesterday to an article in a Salem paper trying this case.

MR. SHEPARD. The article in the Salem News could have come from but two persons, either the reporter here or Mr. Goodell. The reporter of the News told me they got it up, but Mr. Goodell furnished the alleged facts.

THE CHAIRMAN. There is one thing I want to call attention to, gentlemen. This committee does not intend to go outside of the information asked for by the House. Anything in regard to Crispus Attucks we have nothing to do with. The committee does not want to be connected with anything of that kind. We are ordered here by the House to get certain information and that is all we have to do. Any further questions of this lady?

MR. SHEPARD. I want to ask the circumstances of her leaving that position.

MR. BARNES. She said she was sick. I suppose that was the cause of her leaving.

Q. (By THE CHAIRMAN). Why were you discharged from the office?

A. I never received a discharge.

Q. (MR. BARNES.) How did you come to leave?

A. I did not leave, I was carried out. I did not care to go there again after that.

Q. (MR. SHEPARD.) Where were you taken to?

A. I was taken to Somerville.

Q. Was your mother or any person present?

A. No, sir, she was notified I was there and they refused to give me to her for a day or two.

Q. Do you know by whose directions you were taken there?

A. No, I do not, I was entirely unconscious at the time.

Q. (By MR. BARNES.) You state the facts, please?

A. I would like to know what you would like to have me state.

Q. If we have not asked the question to bring out the information, please give the information.

THE CHAIRMAN. We want to find out what we can in regard to the prosecution of this work?

A. During the first year I was there, Mr. Goodell said he

could only work three hours of each day and devote but one hour a day to this business. He said his physician had so ordered. He was president at that time of the Naumkeag street railroad.

Q. That was in 1879?

A. Yes, sir, there was no printing done that year.

Q. How long did he continue in that condition?

A. I could not state. Sometimes he came and stayed a long time; sometimes he would come and stay more time each day, and sometimes we did not see anything of him but once a week or not at all.

Q. All that time were you supplied with work, and the other clerks also?

A. Yes, sir, we were supplied with work.

Q. (By THE CHAIRMAN.) How long did that state of things continue?

A. Well, that state of things continued off and on. Sometimes we were driven and sometimes other things were taken up, lists made out and different things.

Q. Did that occur all the time you were there?

A. Well, one time Mr. Goodell was away three months.

Q. (By MR. BARNES.) During the time you were clerk there Mr. Goodell broke his arm?

A. No, sir, that was before I worked there.

Q. (By MR. SHEPARD.) Well, during all the time of your stay or at any time was he there during the greater part of each day?

A. Well, sometimes he was there the greater part of the day.

MR. SHEPARD. I understand this lady has before the legislature a petition for legislation to enable her to receive pay for the time she was confined in that asylum, and that matter has been referred to the Committee on Public Service. She expects to appear before that committee to tell all that she knows with reference to that matter and all other things, except what we choose to ask her concerning the progress of the work. She does not care to state here matters that she will probably be willing to say before the other committee.

MR. BARNES. If there is anything relating to this case, this is the proper place to state it.

THE CHAIRMAN. That is what we are endeavoring to elicit now. Is that all?

MISS ADAMS. If there is anything further you would like to be enlightened on, I will answer it.

Q. (By THE CHAIRMAN). Do you know anything to enlighten us? As near as I can remember the resolve wants this committee to get all the information we can in regard to the prosecution of this work and the probable expense and the time it will take to finish it and the cost thereof?

A. I think I might call your attention to the fact that the public acts are already printed and that the resolves that are remaining ought not to take the time or labor or anything like it that the acts did.

Q. In your opinion would three years be a long time to execute the balance of the work?

A. Well, it is according to what Mr. Goodell has laid out.

Q. (By MR. SHEPARD). Are you familiar with the resolves on which that work is based?

A. The scope is very wide. In matters considered of historical importance the commission is reduced to one, and it all depends on that one man.

Q. He makes the price for salaries.

A. He makes the price and arrangement. He leaves out what he chooses and puts in what he thinks important.

Q. (By THE CHAIRMAN). I think Mr. Goodell said that all the matter was prepared down to 1780. Would that take three years in your opinion?

A. No, sir; if it is all collected I do not see how it should take three years to have it printed.

MR. BARNES. Perhaps Mr. Goodell would like to ask some questions.

MR. GOODELL. Mr. Chairman, you might ask the young lady if I ever asked her to pay better attention to her work and not read the newspapers.

MISS ADAMS. I remember I was reading a paper, the advertisements, and he told me that I should not spend two hours reading the newspapers. I observed he was reading all the forenoon, and he was the same as ourselves.

MR. GOODELL. You might ask if she was not in the habit when we were upstairs of doing her crochet work and locking the door, and whether that would not cause some ill feeling on her part when she was obliged to desist.

MISS ADAMS. I don't remember doing any crochet work except at noon hour.

Q. (By MR. BARNES). When was that,—near the close of your service or earlier in your work?

A. A week before I was taken sick.

Q. You had been there eight or nine years?

A. Eight years. Mr. Goodell always praised my work for some years.

MR. GOODELL. I would like to have the committee ask if any of her associates spoke to her about it, whether she did not lock the door and do crochet work, and if when I came to the office and rapped to get admission, she did not then put away the crochet work and resume her labors, and if one of the clerks did not tell her she could not in conscience do that kind of thing.

Q. (MR. BARNES). Whether one of you young ladies locked the door while crocheting?

A. We locked the doors and sometimes it was beyond our noon hour. One time I remember some one coming that Mr. Goodell did not want us to see and he told us to lock the door.

Q. Did any of the other girls do crocheting, or were you the only one?

A. I think I was not the only one.

MR. GOODELL. Did you spend any other time than noon hour crocheting?

MR. BARNES. She said she did.

MR. GOODELL. Whether she did not last year read the story of Silas Lapham, or some other serial in the office?

A. Yes, sir.

Q. (By the CHAIRMAN.) Was that done to the detriment of the work, Miss Adams?

A. No, sir.

MR. BARNES. I think that is a matter of the internal arrangement of the office.

MR. GOODELL. Whether that was not concealed from me, and when I discovered it whether I did not tell her she must devote her whole time to the work and that she must not read newspapers?

MISS ADAMS. No, I do not recollect these words or that conversation. He said at one time he did not like to see fancy work around the office and he wished we would not bring it there at all.

MR. GOODELL. Whether I did not have to send one time for her to come and resume her work and tell her that if she did not begin her work she must leave, that I would not have anyone there who was not faithful?



MISS ADAMS. When I came in one Monday morning I found my desk covered with large books which the office boy left, and I felt that it was an attempt to make me do office boy's work, and I went to the library to look up some things and the books were not removed when I returned. Mr. Goodell said, "Are you sick to-day?" I said, "Why do you ask?" He said, "Are you too weak to remove the books?" If you are going to put on airs, you must leave." I said, "You will give me a month's notice; I am entitled to that." I said, "You will give it to me?" He said, "You will either remove the books or go." I said, "I will move them this time," and I moved them.

MR. GOODELL. I will say to the committee I do not wish to pursue this matter. It is a side issue, but if it is brought in for the purpose of contradicting me I should wish it to be submitted by sworn witnesses, and I should want to take the oath myself.

THE CHAIRMAN. I do not think the committee would like to go very far in this direction.

MR. GOODELL. Does the committee wish to hear any testimony in contradiction of this, or will they rule it out?

MR. BARNES. The contradiction of which part of it?

MR. GOODELL. The whole of it.

MR. BARNES. Do you propose to put anything in to contradict her statements as to working there nine years and that part of the time she worked over hours, or simply regarding the latter period of her work?

MR. GOODELL. She worked there a little less than seven years.

MISS ADAMS. Less than eight years.

MR. BARNES. She said she was there from December, 1879, to October, 1887, a little short of eight years.

MR. GOODELL. I wish to show there was no time when they were not supplied with work so far as it could be foreseen.

MR. BARNES. Do you wish to put in testimony showing that all that eight years the clerks were fully employed in this business?

MR. GOODELL. I do not mean to say they were fully employed, but they were so far as I knew. When the clerks first began it was at four dollars per week and they had to learn before materials were given them.



MR. BARNES. Do you wish to dispute the fact that sometimes you were there an hour a day and sometimes two hours and sometimes were away all day?

MR. GOODDLL. There was one time when I was away, but I can explain that. There is no mistake in the time during which I was absent from the office and the amount of work I did. I want to deny that I ever stated I could work but three hours a day and should give but one hour to this business.

MR. SHEPARD. You would not deny the fact, but the statement?

MR. GOODELL. Yes, sir, the fact and the statement, and give my reasons.

THE CHAIRMAN. This fact comes to us through one of the local papers, that there were four reasons for delay: First, the great fire of 1872, second, transfer of the state printing from Rand & Avery to Wright & Potter; third, the transfer back to Rand & Avery and fourth, the second fire in Wright & Potter's office. Do you claim that the publication of this work was interfered with by the fire in the Wright & Potter printing company's office?

MR. GOODELL. I made no statement to anybody except the statement I made here at the last hearing.

THE CHAIRMAN. I think you made the statement the other day that you were delayed on account of some of these things.

MR. GOODELL. I remember what I said. It was exactly this, that besides the ordinary causes of delay there were four extraordinary causes by reason of the great fire in 1872, and another was the change of work from Wright & Potter to Rand & Avery, and the other was the delay from the transfer back again, and the fourth cause was the fire in the Wright & Potter printing company after that.

Q. (By THE CHAIRMAN.) What delay was occasioned by the fire in the office of the Wright & Potter printing company? How were you delayed there in the state office.

MR. GOODELL. The thirteen presses of Wright & Potter and all their composition rooms were destroyed by fire; they lost \$150,000. That fire burned up the state documents and the printers had to go to work for the state and make up these documents again. That was in 1887, for I know that Mr. Dresser and I had some considerable discussion on it. I endeavored to give him an idea how soon I could get out my next volume. I think I got a letter from him the 11th of

March ; and then, on the 6th of April just after that, came this great fire which about made me sick.

THE CHAIRMAN. Have you given the state printers any copy for the past year?

MR. GOODELL. I have not.

THE CHAIRMAN. And is there not some sixty or more pages of this matter lying there waiting for you?

MR. GOODELL. I have not got any work done by the printer for the last year. We worked up to the time of the assembling of the Legislature and in the spring I was taken suddenly ill and I could not read any proof although I went on with the editorial work. For five months I could not come to my office here. I was taken with a complicated and dangerous disorder during which time I had my copies all done to 1762. One of the printers, Mr. Wright, junior, came down to see me and observing how ill I was said, "Oh, I beg your pardon, if I had known your condition I would not have come." That was in the warm weather.

MR. SHEPARD. How long is it since the fifth volume was published?

MR. GOODELL. It was in 1886. It did not go into the hands of the printers until after they reorganized their office.

MR. BARNES. Did they print any in 1887?

MR. GOODELL. Yes, between 500 and 600 pages.

THE CHAIRMAN. There has been nothing done in the past year?

MR. GOODELL. Not of printing, but we have gone greatly ahead on the other work.

THE CHAIRMAN. Are the printers waiting for you to supply the copy?

MR. GOODELL. No, sir, the work is waiting for me to get my material together, and the printers could begin as soon as the legislature adjourned and commence on my new copy.

MR. BARNES. Must the legislature adjourn first?

MR. GOODELL. I think it would be better, because if I sent twenty-six pages of copy to the state printers, I might have to wait a month before I got the first nine or ten pages of revise.

THE CHAIRMAN. Just now they could not attend to a matter of this kind because they work night and day.

MR. BARNES. The last volume went to the printers in 1887 and has not been published yet. Please explain why not.

MR. GOODELL. It was in the fall of 1887. Their work continued up to the session of the legislature of 1888.

MR. BARNES. Why was the book not published at that time?

MR. GOODELL. It did not begin until the autumn of 1887 when they got their office reorganized. Then the work continued on without being finished; we got five hundred and sixteen pages, I think, perhaps more than that, until the legislature assembled. Then of course there must be a suspension of work, which is not profitable to either party to continue while the legislature is in session. Then the legislature continued down to beyond the time when I was taken ill, and was unable to communicate with the state printers, and so continued for five months, I not being able to come to Boston to compare my work. All the work that requires comparison with the state archives must be done near the Secretary of State's office. I came up when I was able to and the matter of editing and choosing the materials took up the whole of my time until this General Court has begun again, and now I am looking forward to complete the whole of the manuscript copies up to 1780 this year, as I told the committee. When the legislature rises, I shall try to get the Wright & Potter Printing Company to accede to the terms of the proposal which I have made to them that I shall have a regular amount of proof. As it is, first you read twenty pages and the next day you come on twenty pages more of first revised proof and twenty pages of second revise. Then you next come in and have twenty pages of third revise still.

MR. MACFARLANE. You have got how much matter ready for the printer now?

MR. GOODELL. I have not been going on with a view to getting it ready for the press.

MR. MACFARLANE. If you had so much matter ready, would it hurry the matter if they got it in hand?

THE CHAIRMAN. Just there I want to ask a question: How soon could you supply the printer with some copy?

MR. GOODELL. I could supply them with copy now, but I don't think it would be profitable to supply them with copy just now. I could supply it to-morrow, but I don't think it would be profitable for the state. I have got five hundred and sixteen pages on this volume but still the work I have got ahead (of copying) will be finished this year if I am allowed to continue.

THE CHAIRMAN. You would be ready to go on economically how soon?

MR. GOODELL. As soon as the legislature gets through so that the state printers can have nothing else on their hands to delay them.

MR. SHEPARD. How many times has that matter been looked into by the Finance Committee with a view to hurrying you up with it?

MR. GOODELL. I am not aware that it has ever been looked into with a view to hurrying me up. I think Mr. Jacob Dresser has gone into it more than any one man, and I think I am not overstating in saying that no man in my contact with committees has been more thorough, more intelligent, more willing to learn and less prejudiced than he has. He can tell you what efforts he has made and whether I have exhibited a sincere desire to get the work done. I am willing now to engage to finish it in three years if I can have control of the matter.

MR. BARNES. I would like to ask Mr. Dresser what his first connection with the subject was.

#### TESTIMONY OF MR. JACOB DRESSER.

Mr. Chairman, I should be happy to give the committee what information I possess, although it is not in the nature of detail, not such as to enable them to come to a conclusion in regard to the completion of this work any more than the committees in the past have been able to arrive at a definite conclusion when the whole thing should terminate.

My knowledge of this thing began in 1884 when I was first a member of the legislature. I was honored at that time by being put on the Finance Committee and owing to one reason or other this particular matter happened to fall more to my charge, knowledge or province than it did to the other members of the committee. I found that it had been a matter of doubtful judgment and doubtful popularity with the legislature in years before; that there were many who questioned the propriety, or necessity, or advantage of the whole proceedings,—in short, that it was a question that ought to have some attention given it. I recollect, I think, the first interview that I had with Mr. Goodell in regard to it was in the Executive Chamber together with Gov. Robinson. Gov. Robinson entertained some doubt as to the expediency of the matter, and after some conversation,—I think the state had then spent \$70,000 on the work.



MR. SHEPARD. \$77,550.

MR. DRESSER. Yes, sir. At that time, 1884. To leave the work in its then incomplete condition was certainly hardly creditable to Massachusetts, and not what she had been accustomed to do, not the method in which she had been accustomed to do business. Although it seemed unwelcome and somewhat doubtful as to the profit to be realized from carrying the work on, yet from the men of distinction, men who were familiar with what I may call the inside character of the work, the Finance Committee could not come to any other conclusion than that it was the duty of the state at that time to continue the work, although it was with a good deal of reluctance that it was done. The money was appropriated which was asked for, not with the idea that it would be entirely finished the next year, but that the greater part of it was done.

MR. SHEPARD. That it would be finished in 1885 or 1886?

MR. DRESSER. This was in 1884; that was the first vote on it.

MR. BARNES. What was the outlook then as to its final completion, Mr. Dresser?

MR. DRESSER. The outlook was as it is now,—that it would be finished in a comparatively short time. We had spent \$77,000, and in my own mind at that time I had a sort of intuitive idea in regard to the matters we were brought in contact with,—I thought the state would have to pay \$100,000 to finish the work. And I thought from the testimony of Judge Gray and various other gentlemen who were aware of the value of those things and to a certain degree the basis of our present law rests in part on those old provincial laws, I thought it would be wise for the state to go on with it, and so long as I was connected with the legislature it has continued,—from that time up to 1887 when my term expired, or at least, I did not come again to the House. It was a matter of great reluctance to the committee to report this every year. At the same time they were brought to the conclusion that step by step the matter was progressing and it seemed unwise to cut off the appropriation at that particular time. We had gone so far that we better go on, and finally on the last year, which was 1887, of my connection with the Finance Committee, we delayed action on this as Mr. Goodell said, up to March. Along in the middle of March, I think, I had not only correspondence but conversation with him in regard to it. I felt that it was necessary that the committee should have some assurance,—I do not know, gentlemen, that I am within the order of this hearing.

MR. BARNES. I would like to have Mr. Dresser keep on unless he is otherwise disposed.

MR. DRESSER. I may say that in the beginning of 1887, when the usual estimate was made and appeared in the regular estimates of the different departments of the state, it came before us in Finance Committee and we delayed action upon this particular matter until March, and then as Mr. Goodell has said, we had correspondence and conversation with him. I do not know that I should do the committee injustice to say that it was largely left to me to investigate the matter and to see what could be done, and I eventually had a letter from Mr. Goodell which gave assurances to the committee of the early completion of the work, so that it seemed that there could be nothing to delay the work beyond another year.

THE CHAIRMAN. Any limit of time?

MR. DRESSER. Yes, about the following year,—that something more might be wanted the following year.

MR. BARNES. That was given in 1887.

MR. DRESSER. Yes, sir, that was the way the matter presented itself to the Committee of Finance in 1887, and under that view of it the committee, or I, recommended the passage of the appropriation which was asked, I think \$10,500 and some odd dollars. I may say here, however, that the whole appropriation made was not always exhausted, as the gentlemen perhaps, are aware. When there was no printing done there was a large surplus covered back. But that was the amount called for, and upon the then representation of matters, and the condition of the work, we voted the appropriation again. What was done in 1888 I do not know, or at least, I know what was done, but what the representations and the ideas moving the committee in that year were, I do not know at all, as I was not a member.

THE CHAIRMAN. I would like to ask Mr. Dresser a question. The proposition from Mr. Goodell perhaps you have read: He is willing to give a bond to the state for the publication and completion of this work in three years' time at a charge of \$3.00 per volume for 2000 copies of his volumes, or at a charge of \$4.00 per volume for 1,000 copies of each volume. Would it be wise for the state to accept of a proposition of that kind considering the condition of the work and what has been done and what remains to be done, the time to be three years?

MR. SHEPARD. I would say that he gives no assurance of the number of volumes there may be.

THE CHAIRMAN. He may have four or five.

MR. SHEPARD. Mr. Clark, who was here, thought there would be eight volumes.

MR. GOODELL. Eight volumes of 600 pages, or four volumes as large as these.

MR. SHEPARD. Mr. Goodell's proposition is that he will take the job off the hands of the state and do it on his own account, if the state will take 2,000 copies of each volume at \$3.00 per copy, these new volumes to be 600 pages each at \$3.00 per copy and 2,000 copies to be purchased, that is \$6,000 for each volume. He does not tell us how many volumes there will be, but a friend of his who went through the work came here and said he thought it would come within eight volumes. That would involve a charge to the state of \$48,000. Now what is your opinion as to the acceptance of that offer?

MR. DRESSER. Or \$24,000 if brought within four volumes?

THE CHAIRMAN. Mr. Dresser occupies a high position in regard to finance.

MR. DRESSER. This does not seem to be a question involving financial questions, and perhaps the judgment of some one more practically connected with printing matters would be worth a good deal more than mine in the premises. I can only say as I hear it stated now that the work is to be completed at the end of this year so far as manuscript goes.

MR. GOODELL. Not the editing,—the copying. The materials for the editor are at hand. I have the copying done to 1762 and all examined and picked out down to 1780, and they are working on to 1780, and that is the year of termination, the year of the adoption of the Constitution.

THE CHAIRMAN. The proposition is that it will take three years longer to edit and print it.

MR. DRESSER. The cost, \$3.00 per volume, is a matter I do not know anything about.

MR. GOODELL. That is what the state sells them for.

MR. DRESSER. But it seems to me that the state having gone so far in the matter, having prepared the entire work, as it were, it remains simply a matter of editing and printing, that that matter could be accomplished as well by the state as any individual, and it would be wiser for her to go on continuing the printing, because Mr. Goodell's work is practically done. The state has expended perhaps, then, \$115,000 or \$120,000 for the work and it remains simply to be edited and printed. Now, the state has a contract in the

matter of printing which is called advantageous, and it certainly seems that she could get the work printed and bound as cheaply under that as an individual could. I have no hesitation in saying that my impression is that the state should retain control of this enterprise upon which she has already entered, rather than enter into relations which might in future become complicated in various directions. It is proper she should control entirely this work. If she stops it to-day it remains just where it is, and she controls and may take it up at any time in the future. Entering into a contract of this kind, it seems to me you have a contract which might eventually become a source of trouble.

MR. SHEPARD. You said you had a letter of Mr. Goodell's, stating that that work would be done in about one year.

MR. DRESSER. Yes, sir; that letter was written some time in March, 1887, and I think I must have given it to the committee or the chairman of the Committee of the Senate, who had the same use for it I had. The design of that letter was to give assurance that this matter should not continue *ad libitum* and for a period beyond his life or generation.

MR. GOODELL. I do not understand you to say that I said it would be done in one year.

MR. DRESSER. No, but the letter gives that impression.

MR. GOODELL. I understood you to say you understood there would be another appropriation after that year.

MR. DRESSER. Yes, sir.

THE CHAIRMAN. How much more time shall we give to this?

MR. BARNES. I move that this committee adjourn.

THE CHAIRMAN. Can you come in to-morrow, Mr. Goodell?

MR. GOODELL. I can, sir. My office was kept so that my clerks may be convenient to the secretary's office, but my editorial work was done at home in Salem. I only kept my office for the clerks here.

[ADJOURNED TILL JANUARY 31.]

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BOSTON, January 31, 1889.

The Committee met at half-past eleven o'clock and resumed the hearing on the Province Laws, Mr. SHEPARD in the chair.



## TESTIMONY OF JOHN C. SPOFFORD.

MR. SHEPARD. We have Mr. Spofford of the firm of Brigham & Spofford whom I desire to ask a few questions.

Q. I will ask you for any conversation with Mr. Goodell, the gentleman here, in reference to this statement [referring to a paper] which provides for 680 feet of general offices, 190 feet private office, 120 feet proof-reading office in a new annex for his department, that is for publishing the Province Laws.

A. Mr. Chairman, according to the instructions which I received from the Governor and Council I visited all the State Departments, both inside of the State House and outside; amongst them was this department of which Mr. Goodell is the head, I believe. I think I was in there perhaps half an hour; had a very pleasant call there, as I did with all the other departments, and I put down here briefly—I made no note of the conversation—just the size of the rooms, which I will read: Private room for editor, 12 x 16; proof-reading room, 10 x 12; general room, equal in area of the present room—that was the room that went into the large room that he then occupied—and then I have down here the present area of the rooms that he occupies. Those notes or figures are what that circular was made up from as far as this department is concerned.

Q. Now, as to any conversation with him at that time, or any other time, looking to the continuance or the need of that office in future years? Of course, you wouldn't provide for an office of that sort unless there was some thought that it would be needed for more than a year or two?

A. I don't remember particularly. I remember that we talked over what Mr. Goodell was doing. It was the first time that I ever met the gentleman. I introduced myself; he told me what he was doing. I don't remember that he stated any time that it would take him to do his work. My impression is that he inquired of me—I will not say for sure that he did, but so many inquired of me, nearly everybody inquired of me—how long it would take to build the building; I said it would take some five years to build the building. Whether I told Mr. Goodell so I wouldn't say. We talked over the matter of the new building. He told me of the cramped place that he had had previous to the

place he was then in ; he told me those were the best rooms he had had so far and they didn't meet his requirements. He gave me a general idea of what he wanted.

Q. He seemed to think he should live long enough to occupy, or that the business would require a room in that building?

A. Yes, sir.

Q. He was pleased to think he was going to have so good accommodations?

A. Yes; he and all the rest seemed to be pleased that they were going to have something better than the present rooms.

Q. You say you told the parties generally it wouldn't be completed for five or six years?

A. Well, I told them four or five years. It depended on when they commenced the work, if they started it this year or not. I judged generally by the way we did such work.

(EXAMINATION SUSPENDED.)

#### TESTIMONY OF JOHN O'DONNELL.

Q. (By MR. SHEPARD.) Have you ever seen the article which was published in the Salem News of January 24, I guess would be the date?

A. I never see the Salem News. I saw a clipping from it.

Q. Stating some hindrances to the work of making progress in this matter of publishing the Provincial Laws?

A. I saw that or a like clipping yesterday, which was the first knowledge I had of it.

Q. Now, here are four reasons given for the delay, or rather the long time that has been required to push that work in its present stage. The first of these is, "The great fire in Boston in November, 1872, by which the second volume (which was in the hands of the binder), and all the stereotype plates of that volume, and of volume 1, were totally destroyed. This not only rendered it necessary for the editor to go all over his work on volume 2 a second time, but the time required to re-organize the printing office still further protracted the work." That I suppose has some substance? That was the cause probably of the delay?

A. Oh, yes, sir, there is no doubt about that.

Q. Now, "Second,—the transfer of state printing from

“Wright & Potter to Rand, Avery & Co., by which the latter were obliged to get an outfit of rules and type adapted to this and other state work and to acquire familiarity with the work.” How much delay in your opinion would that transfer cause?

A. Of course, I am not familiar with Rand, Avery & Co’s style of doing business, or the late concern, and I should prefer not to express any opinion about it. I should say, in general terms, it was a large establishment and they could readily get the material that was wanted. I don’t know that it was so, but I should think it might be so.

MR. GOODELL. May I ask a question at this point?

MR. SHEPARD. Yes, sir.

Q. (By MR. GOODELL) As a general thing, you think, don’t you, that the transfer of the business from Wright & Potter to Rand, Avery & Co., or to any other concern, would necessarily delay the work; that fitted as you were to do all the work completely, wasn’t it necessarily some delay? Wasn’t some delay caused by the transfer?

A. I should prefer not to express any opinion as to what Rand & Avery could do, or might have done.

Q. You don’t pretend to know that they didn’t delay, that the work wasn’t delayed?

A. I don’t pretend to know.

Q. Do you remember, right here, of a considerable delay that I had with Rand & Avery about getting a second case of type, and finally I bought a case of yours?

A. I recollect that circumstance.

Q. And it was a long time before you felt you ought to furnish them with that?

A. I recall the fact.

Q. That I bought it?

A. Yes, and I recall the fact that I told you at the time that the type could be got within any reasonable number of hours from a type foundry. They could have got it as well as not, but whether they did or not, I don’t know.

Q. They didn’t as far as you know?

A. No, sir.

Q. I bought a case of you, and you bought it back again?

A. Yes, sir, that is correct.

Q. (By MR. SHEPARD.) As to the rules required, spoken of here, a new outfit of rules: that is a matter of only a few hours to anybody?

MR. GOODELL. That is a matter of argument.

A. I don't know anything about that.

Q. "Third, The change back to Wright & Potter, or rather to the Wright & Potter Printing Company, who are now the state printers, and who, having given up the state work while Rand, Avery & Co. held it, were obliged to re-furnish their printing office with the proper rules, type, etc., adapted to the state work, and with which, under their former contract, their printing office was completely equipped." What delay, in your opinion, was there from that cause?

A. I should say there was no delay, Mr. Chairman, that I can recall. There certainly should have been none. My impression is, there was none. I don't know about the fact.

Q. (By MR. GOODELL.) Setting aside the reasons given for the delay there, which of course I am not responsible for, wasn't there, in fact, a long correspondence with Rand & Avery? Didn't they claim the right to continue the work, and wasn't the matter submitted to the Attorney General, or somebody (I could produce the letters, perhaps, which would make it clear), and wasn't it finally decided by the Commissioners, that Wright & Potter were entitled to the work?—

A. My impression is that there was a long delay on that account, that they held back the plates, etc.

MR. SHEPARD. What Commissioners, Mr. Goodell?

MR. GOODELL. Commissioners on the Province Laws.

MR. SHEPARD. They became extinct, I thought, twenty-two years ago.

Q. (By MR. GOODELL.)—They telling them that they should return them to Wright & Potter, wasn't that so?

A. My impression is, that between the time of our securing the contract, in July, 1882, there was some six months before we commenced the work. I can't recall why it was, but I think that was the fact.

Q. (By MR. SHEPARD.) In what year?

A. We got the contract in 1882, in July. In January, 1883, we commenced the work on the Province Laws.

MR. SHEPARD. Those supposed Commissioners at that time (I think that is the proper term), I don't know that there has been but one.

MR. GOODELL. Don't quibble on words. It was Mr. Ames and myself.

Q. Now, "Fourth—a second fire, by which the composing room of the Wright & Potter Printing Company was gutted and all work in the hands of the company necessarily retarded."



MR. BARNES. I would like to have that matter of the commission settled. I think Mr. Goodell told this Committee, at the first hearing, that the Commissioners made their report and ended their labors in 1866. The copy of their report, which has been presented here, is said to have been made in 1866. Now, if the Commissioners on Province Laws in 1882 were transacting business —

MR. SHEPARD. Mr. Barnes, we can settle that without the presence of this gentleman.

MR. BARNES. Certainly.

Q. (By MR. SHEPARD.) How much work have you done on the printing of these Province Laws during the last year, or a year and a half; or how long is it since you have done anything?

A. Not for a year, I should say.

Q. Haven't had any copy from him for a year or more?

A. I think not.

MR. GOODELL. Last spring was the last. I think it was March or April, just before I was taken sick.

A. My impression is, it was about a year ago; and I know that Mr. Goodell has been sick, and I understand that was by accident. At all events, we haven't had any copy and we couldn't go ahead with the printing.

Q. When you are at work, or when he is at work, you can very easily do whatever he wants done right along, promptly, as he desires it done? There is no reason why you can't accommodate him with as much proof every day as he supplies copy for?

A. Except, perhaps, the first eight or ten weeks of the legislative session, then we are very, very busy, crowded with any number of reports that are imperatively demanded by you gentlemen of the legislature, and during those weeks I should say we couldn't supply Mr. Goodell with proofs.

Q. At all other times in the year?

A. At all other times, yes, sir.

MR. GOODELL. I think that corresponds with what I have said.

A. That applies generally. The legislature of this year may do more than that of last year.

Q. (By MR. MACFARLANE.) Then you commenced this in 1883?

A. Yes, sir. Since then we published one volume.

Q. (By MR. GOODELL.) When that fire, last year, took place, April, 1887, it burned up your complete sets of the Public Documents?

A. Yes, sir.

Q. And necessitated printing them over?

A. Yes, sir.

Q. And that gave you more work in the summer than you usually had?

A. No, sir, not through the summer.

Q. Made more work through that year?

A. Yes.

MR. GOODELL. I have never found any fault with Wright & Potter. I think your testimony agrees with mine.

Q. (By MR. MACFARLANE.) Then there has been one volume printed in those years?

A. We got the contract in 1882, we commenced in 1883, and we have printed and bound one volume, and there is another volume of some five or six hundred pages—I guess there are over five hundred in plates, Mr. Goodell, and some number of pages beyond that, Mr. Goodell?

MR. GOODELL. Yes. This last year, the year 1887, we began. The estimate, I think, was made in 1887, that the work might proceed a little faster; and just after we had made that estimate came the great fire, which was, of course, some put-back to you. I don't see how these accidents could have very well been avoided, but the greatest delay I ever had was on account of changes, when the contract was taken from Wright & Potter to Rand, Avery & Co., and there was a very great delay, a very serious delay. But it has been the custom, has it not, for me to keep a record of the copy sent to you, and of the proof received and sent again to you?

A. I understand so, sir.

MR. SHEPARD. I think the rest of the committee must have the same impression that I have about that matter, that Mr. Goodell told us that is was about half of the year, or during all the time when the Legislature was in session, that they could do nothing for him.

MR. BARNES. I understood that. I asked several questions on that point.

JOHN C. SPOFFORD, RESUMED.

Q. (By MR. GOODELL.) Do you remember, Mr. Spofford, my saying that this was a temporary commission, and you said that you were ordered to take a survey of all, and then I said, "Why, if that is so, if you want to know what I

would like to have I will tell you." Do you remember something of that kind, my saying it was rather absurd that you should come to me, that I wasn't a Department, only a sojourner, telling you of the several places in which I had my office?

A. I have a general impression of some one talking in that way. I won't say it was you.

Q. I didn't send for you.

A. No, sir, I was under orders from the Governor and Council.

Q. And can't you recall the conversation when you first came in and introduced yourself, something was said about temporary home, and I went on and said, "Mr. Spofford, what is it you desire to do?"

A. I remember about the temporary home.

Q. And you said, "I am instructed to survey your rooms and see what better quarters you want in the new State House," and my saying, "this is not a Department, I am only here temporarily, I do the best I can with the accommodations I have, and it is absurd to think of making rooms for me, I shall never occupy them." Don't you remember that?

A. I don't remember that part of it. But you might have said it. I don't remember that you did, or that you did not. I remember the conversation that we had in reference to my family—you knew some of my relatives or something of that kind. I know you laughed about the room you had, and you gave me a history of the previous rooms you had.

Q. Don't you remember my saying that this is a temporary commission; that I was not a Department?

A. I can't wholly recall anything of the kind; I can't say that you did not.

Q. You can't say that I didn't say that?

A. No, indeed, I couldn't say that you didn't, certainly not; because I was in there perhaps half or three-quarters of an hour, and I have only a general impression of the talk. I never expected to be called upon to call to mind anything that you ever said to me.

Q. Who were the two young boys that were with you there?

A. They were my draughtsmen.

MR. SHEPARD to MR. GOODELL. What did you tell the Committee the day that I first mentioned, or first produced

this paper here? Do you remember, at one of the early hearings,—and I think perhaps it was the first one,—that I took from my pocket this paper and read that statement of the room required for your Department; what did you state in reference to that?

MR. GOODELL. I don't remember any paper. I remember your talking about the room.

MR. SHEPARD. And you remember my taking this out and reading it?

MR. GOODELL. No. I remember you spoke about the rooms; I don't remember any paper.

MR. SPOFFORD. I know we talked over the work, and you told me, Mr. Goodell, what you were doing; but further than that I don't know anything about it. I didn't know that there was such a commission in existence.

Q. (By MR. GOODELL.) You don't contradict me, of course?

A. No, I can't. I don't remember.

#### TESTIMONY OF A. C. GOODELL RESUMED.

Q. (By MR. SHEPARD.) Did you have anything to do, Mr. Goodell, with starting this movement for the publication of these Province Laws?

A. I did.

Q. Did you have anything to do with the inception of it?

A. I was Vice President of the Essex Institute at the time Gov. Andrew moved, several years in succession, to have this work published. I think some previous Governor moved it also. I think Emory Washburn moved it somewhere. And, as a member of the Institute, very likely I prepared resolutions, or advocated resolutions. I certainly advocated this work, but I never had anything to do with my connection with it. The first I knew of it was a letter from the Governor's private secretary, informing me that His Excellency had appointed me on a commission with Ellis Ames and Ex-Gov. Clifford; and I waited until I received a letter from Mr. Ames, informing me that Gov. Clifford and he would be glad to make my acquaintance, and would like to meet me in Boston to see about organizing the commission. And then I went on Province-Law business for the first time, and for the first time in my life met and conversed with Mr. Ames, and was introduced to Gov. Clifford. Then we went on till 1866, until I made the report, a copy of which I have filed here. And I will say about that report, that it was made by me, in the first place, in rough draft. It was then copied;



two copies were made of it. One of the copies was sent to Mr. Ames for his criticism. Mr. Ames conferred with Gov. Clifford, and they struck out of it what they thought might be spared. Gov. Clifford, however, said he thought that there was nothing objectionable, except that it was perhaps a little unnecessary to go into some of the details there; but the most important things should be so put, that the Governor would grasp them at once, as most salient; and I accordingly had a new copy made, with these parts stricken out. I transferred the cancellations to the draft that I had, and from that a copy was made by a clerk who has been in her grave nearly twenty years—who died before 1870, I think. Mrs. Moore, who came in 1884 or 1885, made the present copy, when we applied in vain, a year or two ago to the Secretary for the original report. It seems that the Secretary's records showed —

MR. BARNES. Mr. Goodell,—

MR. GOODELL. Will you allow me to finish this?

MR. BARNES. Yes, sir, I will.

MR. GOODELL. It seems that while the Secretary's records showed (he is not only the Secretary of State, but is also register of the Council, and he keeps a register of the Council's doings), that while there are papers on file which show that I made reports (for instance, there is one on the 16th of January, 1868, which shows that we commissioners made one on the 11th of January) that these reports referred to cannot be found. A final report was made and presented to Gov. Bullock in 1866, and Gov. Bullock sent for the commissioners and had a conference with Mr. Ames and myself and said, "In making the new commission, gentlemen, Clifford has got his hands full, his boy is sick, and he would be the fifth wheel of the coach any way; you gentlemen are the ones to manage this thing, and I propose to put it in your hands," and hence came the second commission, which I think was dated, Oct. 16, 1867, but which I didn't receive until sometime the following winter or spring, I think. I think I received it sometime late in January, and within the thirty days required by the statute, from the time of my receiving it, I qualified, but Mr. Ames, as I have already testified, said it wasn't a case that required qualification. There was a new law passed that year respecting qualifications. Before that year, no such commissioner was ever required to qualify, and even after that law went into operation, there was a question whether we were not agents of the Governor, rather than independent commissioners. Ames thought we were. Our commission, which we had in regular

form, is duly recorded and called a commission, and hence we are called Commissioners all the way through in all the state reports, and in all the legislation relating to us and our work, and it is entirely too late at this day to quibble on the meaning of the word, but that word is used, "Commissioners on the Province Laws," and signifies something definite. Whether we are legally so or not is another question. Mr. Ames thought we weren't required to qualify, and didn't qualify.

Now, I wish to say something further. It has been said here by outsiders (the facts could have been ascertained from me by inquiring about them) that I had been away from my office for weeks at a time, or for a week at a time, and on one occasion for three months. Now, I want the Committee distinctly to understand that I am not bound to be at this office at all. This office I got for my clerks, after a rule was made by the Librarian that he would not allow the papers to go out of his custody, or out of the State House without, probably, a resolve for the purpose; but we never got that resolve. So I immediately got three young ladies,—the first three young ladies that I found on the list of the Young Men's Christian Union, perfect strangers to me,—to come at the small sum of \$4 a week apiece to copy for me. I set them copying in the basement, handy to the State Archives and the library; and I did my work at home, as I have been doing all along. My work had been done, up to that time, from seven o'clock in the evening to one and two in the morning. I never knocked off work before eleven, or scarcely ever before eleven. The result was that I brought on congestion of the brain from overwork, and I was obliged to leave my work in 1878. I then got out of the Probate Office, so that I could do this day-work, and commenced in the December of the next year (1879) at Boston—my clerks at Boston—and I continued my work as before, at Salem. But it happened that the old chirography was so peculiar that it required a good deal more of my time to come and direct them than I wanted to give, so much so that I found it necessary to buy a season ticket to take me to and from Boston. Up to that time, if the gentlemen will look over the reports of the Auditor, they will find that the whole charge which I had made to the Commonwealth barely covers my expenses in travelling about. Now, since I have devoted myself wholly to this occupation, it has become necessary for me, in the prosecution of this work, to go into every county of Massachusetts. I have had to go to Berkshire County, to Hampshire County, to Bristol, to Barnstable, to Middlesex, Essex and Suffolk, as well as to York

and Cumberland and Lincoln in Maine, which till 1820 were a part of the State of Massachusetts, and were a part of the old Province. I have had to pursue my investigations in the registries of deeds, in the registries of probate, and in the offices of the clerks of courts, in those various counties, and that has been part of my outside work.

Now, when we were on the fifth volume, I worked from November, 1885, to the 10th of April, 1886, nearly every night in the State House, all day Sunday (almost every Sunday) and every Saturday afternoon, and every night until, on an average, half-past ten, getting ahead until April 10th. My wife—it is a delicate matter for me to speak of here, and I ought to be spared this trial, this added tribulation—

MR. BARNES. You will be spared now, sir; there is no occasion for you.

MR. GOODELL. It has been told against me, and I must go on with it. My wife had been seriously ill for two years. I took her to Boston and watched over her, and she was under the care of Dr. Folsom, and she came with me nights to the State House and wrote and did her sewing work while Miss Connolly, my chief clerk, and I went on with the fifth volume until we got to the index, which required only mechanical labor. Then I started South with my wife, to make an excursion, by the doctor's advice, and which I had already postponed too long. We went to Washington, on our way home, and six weeks of our time were spent in most exhaustive labor on the great manuscript collection of the Stevens-Franklin papers, which was necessary for my work, because Franklin acted as the agent, or representative, of Massachusetts in England, both in 1757, after the first French war, and after the settlement of the first French peace, and again during the Revolution. In the Provincial Resolves the value of that research will appear. Since that time Dr. Edward Everett Hale and his son have published two large books, composed entirely of their investigations among this material, and I have the number of pages that I went over. In that examination, I was limited in the number of hours in which I could get daily access to that library; but I went through what was equal to 2000 pages of Sparks's Life of Franklin. Some of this was in French, and some in English. The intervals which were not employed in that research, were employed in the Congressional Library, of which Mr. Spofford is librarian, in consulting books of history and other works, which I required in my studies. The value of those notes I am, perhaps, as good a judge of as any of this Committee, or anybody else. There is no motive

for procrastination or prevarication, because my whole reputation and all the ambition of my life is centred in this one undertaking, which I am as anxious to finish as anybody.

I have accounted for six weeks of my twelve weeks' absence, and Miss Connolly was entitled to a vacation of four weeks. (I will say for myself, that I have never had but two vacations since I commenced this work. One was in August, 1882, and one in September, 1883; but I worked, with that exception, always through the month of August; and I took to Boston Miss Connolly, who had been my night reader, from seven to ten o'clock every weekday night, and sometimes even for four hours. I took memoranda as she read. The extracts that I have taken from that reading are extremely valuable—indispensable for my work. I took her up here first to work through the month of August, when the other clerks went on their vacation, so as to keep this work along—in August, 1883, I think. And we continued that work, and she took no vacation that whole month of August.) Now, in the year 1886, Miss Connolly had no vacation. Four weeks, therefore, out of the twelve weeks were due to her. Six weeks she worked hard; that gives ten weeks. And I want to know if the two weeks over, which she spent in helping me take care of my wife,—her friend, and she the trusted and confidential friend of my wife, who needed a companion all the time, because one of her symptoms was insomnia—that is, she couldn't sleep (and it would wear out anybody to take sole charge of her, so that I had a tremendous load on my shoulders; sometimes staying awake alternate nights, and then working on this business),—I want to know if her labor, every Sunday, and every Saturday afternoon,—which was extra,—and every night from November to April, is not a sufficient offset to the other two weeks that that young woman got?

There has been no other week, day, or month, or period of time, when I have been away from my work. If I have been away from this office, it has been on my work and in my own way. And I am not obliged to be in that office. It was got for my sole convenience, and in order to enable my clerks to have free access to the records; and Miss Adams knows that fact just as well as anybody.

I have just been asked to go before the Committee on Public Service, I suppose about a petition of hers, which I never proposed to say a word about; but before I close I wish to read a paper before this Committee, and I wish the clerk to take notice of it, and in order that it may be presented to the Legislature. I was asked if I had any suggestions to make with regard to future legislation. I will read



this paper, and then ask the clerk to place it on file, to be communicated to the legislature with your report.

MR. SHEPARD. You needn't read it. We can refer to it, if you put it on file.

MR. GOODELL. But I want the facts known to all the Committee. I prefer they should hear it read.

[Reads, as follows :—]

In offering recommendations in respect to future legislation, it would be well for the Committee to disabuse the legislature of any wrong impression they may have received from the newspapers, or otherwise, by reporting a comparative showing of the compensation made to the Commissioners on the Province Laws and their clerks and the compensation of other persons in the service of the state, since the work of the Commissioners began. Take, for instance, the secretary's office, where it is claimed (and I certainly am not disposed to deny it here) the employés are underpaid—a petition for the increase of their salaries being now before the legislature. In that office, I am told by one who claims to have carefully compiled the figures from the Auditor's Reports, it appears that between 1865 and 1887 the messenger employed to sweep out the rooms, etc., received \$7,082.55, more than I received for all my services on the Province Laws for the same period, and \$3,318.94 more than the total compensation received by all the clerks in the employ of the Commission during the same time. This, I submit, is important to be known, and significant, in view of the charges in the article headed "Goodell's Snap," published in advance of your investigation in the *Boston Record*, which is edited by the Speaker of the House, who appointed a majority of your Committee. It is also important as indicating that the work would not be done more economically if taken out of the hands of the present editor and committed to one of the standing departments of the state service.

Q. (By MR. SHEPARD.) In reference to the inception of this work. You said that you were Vice President of the Essex Institute at the time this thing was done?

A. I think I was. Yes.

Q. You were also a member of the Massachusetts Historical Society?

A. I am not sure when I was elected a member of the Massachusetts Historical Society. It was later than that. No, I was not a member of the Massachusetts Historical Society then.

Q. You remember that Gov. Andrew, in a special mes-

sage, recommending this matter to the attention of the legislature, gave as one of his chief reasons for doing so in 1865, or one of the things that seemed to corroborate his position, a resolution passed by the Essex Institute, and endorsed by the Massachusetts Historical Society?

A. I don't remember that. I think very likely that is so. The records will show.

Q. You think that you didn't write the resolution offered by the Essex Institute in that matter?

A. I don't know whether I did or not. I might have done it, and I might not. I wasn't a member of the Massachusetts Historical Society, if they endorsed it.

Q. You were greatly surprised you told the Committee a few days ago?

A. I was.

Q. And that commission was entirely unexpected?

A. It was entirely unexpected. I no more expected it than I expect to be made a judge of the Supreme Court to-day.

Q. Now, this article in the Salem News—I have good authority for assuming that you furnished that article, or that it was taken down from your dictation?

A. You may assume what you are a mind to. I don't propose to be held for that article at all.

Q. Nobody else could have given it.

A. No matter. You can argue whatever you are a mind to, but when you come to charge things on me, you have to prove them.

Q. You say, "The motive of this investigation is purely personal. Last spring, Mr. Goodell, who is president of the New England Historic-genealogical Society, having signed a petition for a sepulchral monument in the Granary burying ground, to the victims of the Boston massacre, objected to a public monument on Boston Common "in honor" of these victims, as a perversion of the purpose of the petitioners and the facts of history. He was savagely attacked for this by the Boston Pilot, followed by the Transcript, the Record and Advertiser. In reply to the strictures of the paper last named Mr. Goodell wrote a temperate reply, reviewing the incidents of the massacre, and pointing out the distinction between the riotous conduct of some of the victims and the true significance of the event celebrated in the fifth of March orations. After several weeks' delay the Advertiser printed this reply upon Mr. Goodell's paying some sixty odd dollars

for the chance to thus vindicate himself. Mr. Goodell's reply has never been refuted in any important particular, but has been endorsed and approved by the best historical scholars. The editor of the Advertiser did not relish it, however, and now as Speaker of the House, he has placed at the head of the committee on printing, Mr. Shepard, who introduced this order for inquiring into the provincial law commission, and he has thus far managed the proceedings against it.

A. I think that is substantially true, the whole of it is substantially true.

Q. What relation has that to this matter, that is, this Attucks business?

A. Am I excused from further discussion of that very unpleasant matter? The Committee on Public Service called for me.

MR. BARNES. You can be excused as far as I am concerned if you will answer one question.

A. What is that?

Q. Do you mean to say that that statement is—

A. I decline to have anything to say about that.

Q. A moment ago you said that was true.

A. Substantially true.

Q. You reiterate that statement?

A. I do. I think you get the very same article in the Record. Substantially, it says the same thing, if I mistake not.

MR. SHEPARD. I want to tell you, if you will listen, that I never had any knowledge of this commission on the Province Laws. I opposed Mr. Barrett for speaker; never asked him for an appointment on any committee; and that my first knowledge of this affair was the day after the appointment of the committees was announced. I went into the Council Chamber to see a member of the Council, who was there, whom I knew, and I met there another one—a gentleman whom I had known in previous times, but did not know really that he was in the Council. He asked me what committee I was on. "Well," I said, "I am on the Committee on Printing; but they say there is nothing to do, and it don't amount to anything. But," says I, "I was in the soup on the Speakership question, and I had to take what I could get." That member of the Council said to me, "There is something that you can do, and if you want to do the best possible thing for the State in that position, you go down

here and rip up an old harem in the basement of this building,"—indicating what it was. That was Councillor George W. Johnson. I commenced, from that, to learn what I could about the matter; and several days afterwards I introduced that order.

MR. GOODELL. You didn't come to me to inquire.

MR. SHEPARD. I had no conversation with Mr. Barrett about it; and Mr. Barrett, through me, never has had the slightest influence, or is in any way connected with my action in this matter.

MR. GOODELL. I don't understand that article to say that he did. It merely says that he appointed you.

MR. BARNES. It says that somebody is managing this matter through Mr. Shepard.

MR. GOODELL. If it says so, it is wrong. I don't say so. I deny that. I don't say so.

MR. SHEPARD. It is ambiguous.

MR. BARNES. It is ambiguous, I admit. We will bring the Speaker here.

MR. GOODELL. There is only one man in this Commonwealth, who in season and out of season, has opposed this work; and from him, in the first instance, all this opposition has come.

MR. SHEPARD. Who is that?

MR. GOODELL. I shall not mention his name. That man has been in the habit of going through the State House and saying, "Of all the damned, outrageous jobs that have ever been saddled on this Commonwealth, is that Province Laws Commission." And yet, up to 1888, Mr. Lewis Hayden received \$7,000 more than I did, and \$3,300 more than all my clerks together, who have worked in this "old harem," as you call it. What has the State got for that? I ask the judges of the Supreme Court, and every historian, and every historical body to answer, which service is the more valuable? And I ask every fair-minded man if it is likely that I would devote the best part of my life to a work that brings me \$750 annually, because I consider it a soft snap? That is nonsense.

Q. (By MR. SHEPARD.) During the time from 1865 up to 1879 you were Registrar of Probate of Essex County?

A. I was.

Q. Drawing \$1,500 a year?

A. Yes.

Q. You were President of the Naumkeag Street Railway



Co., in Salem, with which you were connected the larger part of the time?

A. Yes.

Q. You gave the most of your time—I have no right to say that, because it is hearsay. But I can say here—

A. You are testifying. You seem to be the principal witness as well as attorney.

Q. You were in those positions. You were receiving \$1,500 as Registrar of Probate, and you were attending to your matters as President of a horse railroad, and running a ballet performance at the Salem Willows, and various other things that you had on hand?

A. Yes, I was President of a street railway; but I never ran any ballet performance at the Salem Willows, or anything of the sort. You might add that I was Trustee of the Peabody Academy of Science, and the Secretary of the Board through its whole career to the present time, that I was one of the Trustees of the Orne and Subscription Fund of the First Church, and one of the Parish Committee, and you might find perhaps twenty other things in which I tried to serve my neighbors and the public gratuitously. I devoted myself to this work chiefly, and during that whole period I secluded myself from all places inconsistent with it. I had my Probate Office, which I didn't neglect. My horse railroad work was gratuitous for years and years, and during that time no salary or compensation was ever received by me; so you may judge what I did by what I was paid.

Q. (By MR. MACFARLANE.) You held a majority of stock in that road?

A. I have never held a majority of stock in that road. Until 1879—

A COMMITTEEMAN. I don't know what this has to do with the case.

MR. GOODELL. I have never been so insulted and abused—I am ashamed of it—I never was so disgraced in my life as I have been in these hearings, and it is not my fault. I am a citizen, and I am entitled to rights equal with all other citizens. If I have done wrong, crush me and not spare me at all. If I have done right, do me the fair thing and report that I have done right. I don't ask any favors of this Committee. I want exact justice. If I have not given good satisfaction for the amount of money that I have received, or if I have not as well performed the service that has been required of me as any other man could,—if I haven't done it well, in the minds of competent critics,—say so and let me

resign. I would gladly do so, if justly condemned; but if I have done right, do me justice. I appeal to the good sense and fairness and ideas of justice of this Committee, to see that I am not treated as a felon and a thief and a liar. But I hope to get through this thing in three years—

Q. (By MR. SHEPARD.) You have told every Finance Committee that you thought you could get through with this in two or three years, and sometimes in one year.

A. I have not; it is your own inference.

Q. Didn't you tell the Chairman of the Finance Committee, in 1887, Mr. Johnson, that you thought you could get through with \$15,000 that year?

A. I did not. My estimate for that year shows what it was. I don't know what my estimate was then, but I told according to the best of my judgment. I never guaranteed anything; and I say, right here and now, whatever has passed about this thing, I don't guarantee anything, unless I can have absolute control and am responsible. If I have absolute control, I am responsible, and I will do what I say.

Q. Up to 1882, you had printed four volumes. That was during the time when you were only giving your evenings to the business, as you say, from seven to nine o'clock?

A. I didn't say any such thing. I have never said any such thing.

Q. Haven't you said, previous to the time of your coming up to the State House—

A. 1879—that isn't 1882.

Q. That you only gave your evenings to it—your nights?

A. 1879; not 1882.

Q. Up to that time your salary had been very small comparatively?

A. I hadn't had any salary, I only charged enough,—so much, that in my judgment, without keeping any account of items, it would pay the expenses incident to my fourteen years' work. I think I had received about \$1800 for fourteen years' time spent upon it. The Auditor's report will show. How much is that a year? It is considerably less than \$200 a year.

Q. How much work had you done during that time?

A. I had gone through volume one, volume two, volume three.

Q. You had got three volumes printed up to 1879?

A. But in 1878 I broke down, and Mr. William P. Upham was employed to finish Vol. 3. I got through all but

the last year, I broke down on the 9th of January, I was unable to read, I couldn't see to read a word, and the physicians pronounced it congestion of the brain.

Q. (By MR. MACFARLANE.) There is no salary to this thing, is there?

A. Only the compensation—

Q. Why I asked was why you worked fourteen years for \$200 a year. There is no salary attached to it?

A. Not \$200, a little over \$100,—for my expenses, I call it my expenses.

Q. You got no compensation for those fourteen years?

A. Not for my work.

Q. It must have been a work of love?

A. It was.

MR. SHEPARD. My point is while they were working for love they did about three times as much as they do now when they are working for money.

MR. GOODELL. But, gentlemen, you will understand we have been going through the Revolutionary period, and if you will look at my fifth volume, I don't know what you would say, but some men would say they would repose on their laurels for life, if they had got that material of history together. It is not the number of ems of long primer that you go by, it is the work on the notes, as well, which are in minion. Chapter after chapter of those notes I have reprinted in small pica, and offered to historical societies, which they have been glad to receive as separate articles, and for which I have received high encomiums. The Massachusetts Historical Society has taken my notes selected out of these volumes and published them in their Proceedings time after time.

Q. (By MR. MACFARLANE.) Is there a salary attached to it now, or compensation?

A. It is compensation. I went to Gov. Long, in 1879, I think, and asked him what was the lowest price—the minimum price—that any Commissioner ever charged for services, and he told me \$5 a day, or \$150 a month. He said, "That, I believe, is the lowest." Then I said, "That is all I shall ask; just give me the 'minimum.'" And he said, "That is fair enough." Since that time I have charged \$150 a month; and that is all I get for my service. Now, isn't it worth it?

MR. BARNES. I move, Mr. Chairman, that when we adjourn, we adjourn to Tuesday morning, at half-past eleven.

MR. GOODELL. Shall I be needed here again?

MR. BARNES. I propose to invite Councillor Johnson and the Speaker, to hear their story. If you wish to hear them, we shall not sit with closed doors at present.

MR. GOODELL. I have not charged you with sitting with closed doors, or any other thing which is not true. I have told freely, when any people have asked me, the exact truth and nothing more. I have never understood that the doors were closed, and I never said so to anybody.

MR. BARNES. I move that Councillor Johnson and Speaker Barrett be invited to appear before the Committee.

MR. GOODELL. I have no hostility towards Speaker Barrett, and have nothing to say about him; and I have never charged him with conducting this attack.

Q. (By MR. SHEPARD.) You accept this first part, about which I asked Mr. O'Donnell?

A. I said that was substantially correct. But I should say that the change from Wright & Potter to Rand & Avery was the cause of great delay; and I have the correspondence. When the work changed back again, it was a long time before they relinquished their claim to the right to finish the work.

Q. My question is as to the acceptance of that? You gave the statements, I suppose?

A. I told forty people—not forty, but half a dozen people—who asked me about it, what took place at the hearings—such and such.

Q. Who has marked the papers of the *Salem News* with a red pencil and put them into the boxes of every Senator and member of the House?

A. I don't know who has marked them.

Q. Who has ordered them put in the boxes?

A. As soon as I knew of the articles appearing, I ordered two hundred copies to be sent up to my office, and I have some there now. I consider it a pretty good article, except that it has some errors in it. One error is about closed doors; and another error, I have heard to-day, if it says that Speaker Barrett had anything to do with managing this prosecution. That, I don't think, is well founded; and I take Mr. Shepard's statement for truth, that nothing of the kind has happened, nor have I ever said so. I have said, however, that Mr. Speaker Barrett appointed a majority of this Committee, and appointed Mr. Shepard Chairman of it. I have said that repeatedly. If it is not true, I want to be corrected.



Q. No man will question that.

A. But I never said any more than that.

Q. But that he appointed me with reference to this thing?

A. In regard to the motive, that is charged in the first article in the *Record*, "Goodell's Snap." And now I would like to ask Mr. Shepard if he knows who wrote that article?

MR. SHEPARD. I know nothing about it. The only time I have spoken to Mr. Barrett about this matter was up to a day or two ago. After that article in the *Record*, of which you speak as "Goodell's Snap," I met him after the adjournment. I said, "Barrett, I don't want my name pushed to the front in the matter in the way it is being done. Some people are saying that Shepard is getting a good deal of free advertising out of this thing, and I don't want to appear in that light. Leave my name out of it."

MR. GOODELL. Did you furnish the facts for it?

MR. SHEPARD. No, I never furnished the facts to any paper or any reporter.

[ADJOURNED TILL 11.30 A.M., TUESDAY, FEB. 5, 1889.]

## COMMITTEE ON PRINTING.

### PUBLICATION OF THE PROVINCIAL LAWS.

*Boston, Feb. 5, 1889.*

The Committee met at half-past 11 o'clock, Senator GUNN presiding.

THE CHAIRMAN. Now we shall be glad to hear any parties in regard to the publication of the provincial laws.

MR. MACFARLANE. At the request of the committee I would say that I invited Mr. Speaker Barrett of the House to appear and address the committee on the subject before us.

SPEAKER BARRETT. I will say, Mr. Chairman, that I was invited by the clerk of the committee to appear before you. A notice was shown me which was published in the Salem News, and a statement was made to me that it was shown to Mr. Goodell, and the impression left on my mind was that Mr. Goodell practically assumed the authorship of it. If any one has that paper here, I would like to make some corrections.

MR. GOODELL. I think I expressly disclaimed the responsibility for it, but I think I said it was substantially true.

MR. BARRETT. The committee wanted me to come here in regard to this matter, and I would say that the only part of this article that has to do with this committee and the subject under investigation is that I understand I am charged in this letter with having inspired this investigation. It says here:—"Last spring Mr. Goodell, who is president of the New England Historic-genealogical Society, having signed a petition for a sepulchral monument in the Granary burying-ground, to the victims of the Boston Massacre, objected to a public monument on Boston common "in honor" of these victims, as a perversion of the purpose of the petitioners and the facts of history. He was savagely attacked for this by the Boston Pilot, followed by the Transcript, the Record and Advertiser. In reply to the strictures of the paper last named Mr. Goodell wrote a temperate reply, reviewing the incidents of the massacre, and pointing out the distinction between the riotous conduct of some of the victims and the true significance of the event celebrated in the Fifth of March orations. After several weeks' delay the Advertiser printed this reply upon Mr. Goodell's paying some sixty odd dollars for the chance to thus vindicate himself. Mr. Goodell's reply has never been refuted in any important particular, but has been endorsed and approved by the best historical scholars. The editor of the Advertiser did not relish it, however, and now as Speaker of the House he has placed at the head of the committee on printing, Mr. Shepard, who introduced this order for inquiring into the provincial law commission, and he has thus far managed the proceedings against it."

Now, it strikes me that it is a very indecorous thing for an officer employed and paid by the state to either write or authorize a statement of that character, and as Mr. Goodell says it, I wish to say that it is as unfair as anything could be. When he came to me with the article mentioned I put it in type. There was some delay about publishing it. It was such a tremendously long article it would be so much dead weight to the paper I found, and if I had known the length of it at the time, I would not have undertaken to print it. Mr. Goodell came to see me about it, and finally I told him I would print it if he would pay me the expense of setting it up, which he did and I printed it.

In regard to Mr. Shepard of Danvers, I never said I would appoint him on the committee, never had any conversation with him, and never spoke to any one about appointing him. I did appoint him on the committee because he seemed to me a good person to have on it. I think it is an open secret in regard to my candidacy for the speakership that Mr. Shepard favored another candidate, and therefore I was under no ob-

ligations to him whatever. I appointed him because I thought he was the best man. I never uttered a word about this investigation to any one. I never thought of it. I have had a number of written communications in regard to this matter in which the most objectionable language was used and insinuations made. I prefer to let that matter entirely alone. I never dreamed or thought of such a thing as an investigation before Mr. Shepard came to me two or three days after the committees were organized and asked if he wanted to do this thing how he could do it. I said "The proper way is to write an order and offer it," and that would be referred to a committee and then the committee would report on it. I told Mr. Shepard that the *modus operandi* was to introduce an order and that the committee would report on it.

MR. SHEPARD. That conversation was two or three days after the appointment of the committees.

MR. BARRETT. Yes, if any one thinks I have had anything to do with this investigation I want to disabuse your minds of it. I had forgotten about Mr. Goodell, and I should not have known there was such a man in the State House, except that this matter has been brought to my attention as it has.

THE CHAIRMAN. Any questions to be asked of Mr. Barrett?

MR. GOODELL. Is it possible to think that "he" relates to the last antecedent?

MR. BARRETT. I do not dispute that.

MR. GOODELL. Do you mean to deny that Mr. Shepard has managed the prosecution in this case?

MR. BARRETT. I will answer your question when you are appointed a prosecuting officer. This article says "the motive of this investigation is evidently personal," and the writer repeats what I have read, that I appointed Mr. Shepard in order to inquire into the Provincial Law commission.

MR. GOODELL. Do you want the committee to understand you believe that this author intended to say *you* were to manage it?

MR. BARRETT. Certainly not, because every one knows I have not said a word about it.

MR. GOODELL. You appointed Mr. Shepard chairman of that committee?

MR. BARRETT. Certainly. That statement is true that I appointed him chairman.

MR. GOODELL. You say you have no prejudice against me?

MR. BARRETT. Not the slightest.

(Mr. Goodell then questioned Mr. Barrett at some length in regard to his responsibility for certain articles which appeared in the Boston Evening Record.)

MR. GOODELL. Mr. Barrett, if it appeared that I received for my work during the time I have been engaged in it over \$7,000 less than the colored man who sweeps out the Secretary's office, would you say it was a "soft snap?"

MR. BARRETT. I will say to the chairman of the committee that if the committee wants me to put a comparative value on Mr. Goodell's services, I should want a little time to think about it.

MR. GOODELL. Would you think \$750 a year an exorbitant charge?

MR. BARRETT. I never made such a statement.

THE CHAIRMAN. Mr. Barrett came here to explain in regard to the authorship of this article.

MR. BARRETT. I came here more to exonerate Mr. Shepard, and to deny that I had been in any way instrumental in bringing about this investigation.

MR. GOODELL. I will say I never charged Mr. Barrett with managing the prosecution against me.

THE CHAIRMAN. We are to act regardless of anything said in print.

MR. SHEPARD. I want to say of Mr. Goodell that he immediately purchased two hundred copies of the Salem News and that they were marked with a red mark and put into the boxes of the members of this legislature.

#### TESTIMONY OF GENERAL KIMBALL.

Mr. Chairman, I am simply here because I was invited to come and say something in regard to the continuation of the printing of the provincial laws. I do not know what progress you have made in the investigation, or how you stand on the matter.

THE CHAIRMAN. I should judge we were about bringing the matter to a close.

MR. BARNES. Have you had any experience in this matter?

GENERAL KIMBALL. Very little. I do not desire to say very much on this matter. It first came to my attention a year ago when I was on the Committee on Finance and it seemed to me at that time that there had been a very large expenditure, more than would seem to have been necessary.



The gentleman here on my left [Mr. Goodell] was before us to explain why there had been such an expenditure, starting with an appropriation of \$10,000 in 1866 and reaching \$100,000 up to that time of which I speak. The committee were very decidedly of the opinion that the matter should have been investigated last year by the Printing Committee to find whether or not Mr. Goodell was right in pursuing the course he had pursued and in spending the money he had expended. If the book is of the value they claim, it is all right. But the committee after investigating the matter thoroughly came to the conclusion as it came to them as the Committee on Finance that they had nothing to with Mr. Goodell and therefore they reported back that it ought to pass. After hearing what Mr. Goodell had to say and without more explanation than we then got, it seemed strange that it required \$125,000 to \$130,000 to finish what it was at first believed could be done for the sum of \$10,000 or \$15,000, to complete a work to be filed away in the courts.

THE CHAIRMAN. I should like to ask Mr. Kimball a question: What idea did the Committee on Finance arrive at in regard to the prosecution of the work?

MR. KIMBALL. I can only speak for myself in regard to that. It might be said that we reported back to the effect, that the opinion of the committee was that it should be continued, and my own opinion was that perhaps it should be finished up, though it seemed to me that it should be done in a way that would not cost near so much as it appeared that it would cost if it continued in the way it was being done.

THE CHAIRMAN. Did the committee have any limitation of time.

MR. KIMBALL. I asked the gentleman myself two or three times how long it would take to finish the work, and I must say frankly to you and to him that I did not get any reply. I could not come to any conclusion whether it would take one year or ten years to finish it.

THE CHAIRMAN. Did the committee form an opinion as to the value of the work?

MR. KIMBALL. No, sir, I cannot say that they did. Not being a lawyer I could not say anything of the value of the work. I have no doubt it may be of some value.

THE CHAIRMAN. Any further questions?

MR. GOODELL. Was this last year?

MR. KIMBALL. Last year.

MR. GOODELL. The total appropriation was \$115,000.

Frequently one-half the appropriation was covered back. So that the actual expense had been \$89,500. And that included the five volumes and one on the stocks, and reprinting the second one? Did the committee form any impression as to the amount of compensation I received?

MR. KIMBALL. I don't think that question came before us.

MR. GOODELL. If I had received at the rate of \$750 for my services would the committee think it was exorbitant?

MR. KIMBALL. I should not dispute the fact that any man fit for the position was worth more than \$750. The question with us was whether the finances of the Commonwealth should be expended on the work to the extent of \$125,000 where it was believed originally the work would not cost over \$10,000 or \$15,000. There had been already appropriated something like \$105,000 and you asked for an appropriation of \$10,000 or \$15,000 more last year.

MR. GOODELL. I made the estimate; I did not ask anything.

MR. KIMBALL. So that it was over \$100,000 with the appropriation of last year that the different legislatures had made for this work. Is not that correct?

MR. GOODELL. I do not know for I have not computed the amount of the appropriations but only the amount of expenditure. That has been \$89,507.13. Now last year there was \$11,000 appropriated and less than \$5,000 spent and the rest went back into the treasury.

MR. KIMBALL. The real point at issue was this: It was to cost \$10,000 in the first place and under the management under which it has been it has cost \$89,000 so far and is to continue at an amount which is to be indefinite. Mr. Goodell ought to have said about how long it was going to last.

MR. GOODELL. You said you got no reply. You did not mean that I did not give you all the information I thought I had, but you mean to say that the reply was not satisfactory.

MR. KIMBALL. I mean to say you did not even estimate the time in which you thought you could complete it. There are six of the old Finance Committee in the House and Senate this year and I think they will tell the committee the same thing.

MR. GOODELL. You say I ought to be able to state how soon it could be done.

MR. KIMBALL. I think you ought to be able to estimate pretty clearly.

MR. GOODELL. Now suppose it took the printers four years to print one volume, I keeping ahead of them, how long do you think I ought to estimate for the printing of six or eight volumes or ten volumes?

MR. KIMBALL. I will answer that by asking you is it necessary for the printers to take four years on one volume?

MR. GOODELL. I say if the matter is all prepared and in the printer's hands and if it takes four and a half years to print one volume, how long will it take to print eight or ten?

MR. KIMBALL. I think that is a very singular thing to ask,— if the state printers are four years on one volume.

MR. GOODELL. I have in my office a book giving a record of my copy deliveries to the printers. On the 20th of Dec., 1882, I put into the hands of the printer twenty-six pages, the very day we closed the contract with Rand & Avery. (There was a contest of six months' duration between Rand & Avery and the Wright & Potter Printing Company as to who should print the next volume. The opinion of the attorney-General was taken on that subject.) On the first of January, I got back the first nine pages. On the 10th of January, I got from page 9 to page 16. On the first of February, I got twenty-six pages and on that day I put into their hands the next sixty pages. So the thing kept on. I put as much as I dared to risk out, for sometimes the copy was lost. I had always been ahead of them and my material was all ready to put into their hands. Now that volume was of more than 1,600 pages; and yet I got from them only 359 pages during that year. When I began on volume 6, I proposed to them to give me a regular force of printers which was declined. They however did better for a while and the next fall (between September and January) I procured 519 pages. Then the legislature came again and there was delay. Why under those circumstances should I be held responsible or called upon to make an estimate of when the work should be completed?

MR. KIMBALL. I think if I had charge of a work for sixteen years I could make a somewhat approximate estimate as to the time about when I could finish it up.

THE CHAIRMAN. I should say that during the session of the legislature the printers could not do the work. Mr. Kimball, are you on the Finance Committee now?

MR. KIMBALL. I am not, sir.

THE CHAIRMAN. Mr. Goodell, it appears, has made an estimate that it would take three years to complete the remaining four or five volumes, and at an expense of \$3.00 per

volume for each of the five if 2,000 copies are purchased by the state. In your judgment as a business man, what kind of a proposition is that? Is that a good investment for the state?

MR. GOODELL. Will you allow me to state it again? I offered to print these volumes for the state, giving them the plates, counting my services as nothing. I would not charge a cent. I have offered to edit this work, print it, bind it and turn over the stereotype plates to the state gratuitously, provided the state will take of me of this edition 2,000 copies at \$3.00 a copy, the volumes to be not less than 600 pages each, bound equally well with these volumes, and to have the whole work done in three years, I being allowed to select my printers. But if they will take 1,000 volumes of each I will do the same thing at \$4.00 per volume and agree to have them done in three years and give bonds to have the whole thing done satisfactorily.

MR. KIMBALL. It seems that the gentleman can estimate the time when he can finish the work if he can have his own way.

MR. GOODELL. Oh, certainly, I have always said that.

MR. SHEPARD. Mr. Goodell does not give the number of volumes that he would probably print. He is mum as to that.

MR. GOODELL. Not mum.

MR. KIMBALL. I would like to ask Mr. Goodell if the volume he stated before the Finance Committee was ready for the printers has been done this past year.

MR. GOODELL. Volume 5 is the last that has been done.

MR. KIMBALL. Was that completed during the year? I am speaking of the volume you referred to before the Finance Committee.

MR. GOODELL. Volume 6, the one I was working on, I worked on until the state printers began their work for the legislature and then in the spring I was taken ill with a sickness that lasted five months which seriously interrupted that work; but I have said always that if I could control the matter I could do the work I offered to do. I cannot tell how the gentleman understood me.

MR. SHEPARD. Allow me to state for the information of the gentleman that Mr. O'Donnell, superintendent of the Wright & Potter Printing Company, said that during the past year they had not received one single page of copy of this work from Mr. Goodell. There are in the hands of the printing



company, to-day, plates for 500 pages of the work that has been corrected and stereotyped. A considerable part of it is now in type that has been standing there, I should judge, although I am not positive as to that, over a year. That is, the proofs have not been corrected, so that the stereotype plates can be made and the type distributed. That is standing there in type and Mr. O'Donnell told me that he ought to charge for allowing that type to remain there in that way, but he had considered the matter and would let it go at that. We asked Mr. O'Donnell his judgment as to those four reasons which Mr. Goodell has given for the delay and he said any one could see that the first one had substance to it,—that to burn up a volume and cause the reprinting of it would occasion delay, but in the other three statements there was nothing that ought to delay this work for forty-eight hours, at the outside.

MR. GOODELL. I would ask if Mr. Kimball was on the Finance Committee in 1886?

MR. KIMBALL. No, sir, I was not.

MR. GOODELL. I would very gladly undertake to finish this work and fix the time, if I could control it. And as to the estimate, I never said I could not give an estimate, but I said it would take six months' time to make one, and I was not paid for that, but in that time I could make an exact estimate.

THE CHAIRMAN. What do you think of that proposition, Mr. Kimball?

MR. KIMBALL. I should not accept it if it was a proposition made to me as a business man.

MR. SHEPARD. If there were eight volumes, as Col. Clarke thought there would be, it would involve an expenditure of \$48,000.

MR. KIMBALL. The question comes down to this: Whether the money appropriated by the legislature under the resolve has been properly expended. If it is properly expended, the work should go on, and if it is not, it should be put into the hands of parties that would properly expend it. I do not believe in the proposition that a man should come in here and make a proposal to a committee to do a certain amount of work for so many dollars instead of working under his commission with the appropriation made by the legislature for the prosecution of certain work.

THE CHAIRMAN. Mr. Goodell proposes to undertake to do this thing without any expense to the state.

MR. GOODELL. I sell the volumes at the same price that the state sells them for when complete. I will ask Mr. Kimball if he thinks paying the printers would be squandering money?

MR. KIMBALL. No, sir; that is done under contract and figured down to the lowest estimate. There has been an immense expenditure of money somewhere,—more than was contemplated at first. And there seems to be no let-up to it. The question is whether the committee is to allow that to go on without proper investigation.

MR. BARRETT [*who was present during the hearing*]. If I can ask a question and make a statement, I should like to suggest to the committee that there are two questions it seems to me, involved in this investigation, first, as to the value of the work, and secondly, if the work is of sufficient value to proceed with it. Now as to the value of the work, if that question should be decided in the affirmative, the committee should consider the propriety of continuing the present commission before making a contract. Now, as to the contract, I think myself that would be a very general and indefinite contract. Why the state should buy 1,000 or 2,000 copies of each volume when there is no demand for them is something I should be at a loss to account for. The committee should inquire into this thing. It seems to me from what I have heard here that there is very great lack of definite information on the subject, and I should like to come up myself now that my interest has been aroused in the matter, and hear what is to be said as to the value of these volumes, how many have been distributed and what has become of them. I would suggest to the committee that this work would be just as correct a transcript if furnished in plain Roman type with the idea of preserving it. It seems to me the committee ought to consider all these things fully.

MR. BARNES. A few days ago Mr. Weston was here and desired to be heard. I move that when we adjourn, we adjourn for a fortnight and that the secretary notify Mr. Weston in order that we may have any members of the bar or others here who wish to be heard on this matter.

MR. GOODELL. These volumes are distributed all through the state (just as are the reports of the Supreme Court) to every town, and these laws are the laws of the land to-day. What we are printing now has never been printed, and it is the foundation of towns and parishes now existing in the state.

MR. BARNES. Some time should be fixed for the next hearing.

MR. GOODELL. I hope it will be a public hearing.

THE CHAIRMAN. Do you insist on a public hearing?

MR. GOODELL. I do not insist upon it. I do not ask for any further hearing. I think I have talked enough, but I say that Mr. Weston asked that there should be a public hearing if there was any thought of discontinuing the work.

[On motion of Mr. Barnes, the hearing was adjourned for two weeks from that date, February 19, at 10 o'clock, A. M.]

## COMMITTEE ON PRINTING.

### PUBLICATION OF THE PROVINCIAL LAWS.

#### SYNOPSIS OF THE HEARING.

*Feb. 19, 1889.*

*(Stenographically reported, and reprinted from the Boston Post.)*

The legislative committee on printing yesterday heard further and most important testimony on the subject of printing the acts and resolves of the Province of Massachusetts Bay. The first speaker was Mr. L. L. Scaife, who stated that he appeared as a member of the committee of the Bar Association on the amendment of the law, of which ex-Judge Lowell is president. Mr. Scaife said that what was contemplated was to furnish in plain and intelligible form a chain of the acts of the law-making power of this Commonwealth and its predecessors from the earliest times. He had always understood that it was the duty of those carrying on the government to preserve such a chain intact. It may be objected that the editing and publication of these laws should not proceed further on the ground that they contain a majority of the public acts of the provincial law-making power, and that the acts which remain to be published are wholly, or largely, private acts; but it seemed to the speaker that such an objection should have no weight because the public act of the law-making power of the Provincial Legislature could never be considered, historically, a private affair, but as the act of a public body publicly done.

The mere fact that it may have been thought at that time to affect only a private interest certainly did not make it a private act historically. There was a reason, when we consider the relations existing between the Provincial Legislature and the privy council of England, which negatived the presump-

tion that these acts were wholly, or even mainly, limited to private interests. The local law-making power was not complete, and the acts did not become laws until they were reported to the privy council in England, whose province it was, if they saw fit, to veto local legislation; and if after the period of three years no action was taken by the privy council, the legislation had the same effect as is at present the case if the governor of the state fail within a few days to express approval or disapproval. Differences were constantly arising between the people of Massachusetts and the home government, especially in the matter of the royal prerogative. The people of Massachusetts were constantly making laws which when submitted to the privy council in England were thought to interfere with the royal prerogative, and the consequence was that in this governmental relation differences arose between the colony and the mother country, which were continually manifesting themselves, and which had in their reaction, a local effect upon the legislation here; to wit, to induce the legislators here to attempt to dodge the necessity of getting the privy council to take favorable action. So *resolves* were passed which it was thought did not require to be submitted. They were really *acts*, and *public acts*, some of them undoubtedly being embodied and embedded in the records which remain unpublished and the publication of which is now asked. Mr. Scaife was asked to give his opinion with regard to the value of a sample of the work being done which was shown to him, but after examining it he stated that he would like the privilege of doing what the judges do when unfamiliar with matters brought to their attention—he would like to reserve his opinion. He thought that the work contemplated when published might require to be read by an expert, but believed that it would be of exceeding value in determining the legal rights of individuals.

Mr. Weston, who next spoke in behalf of continuing the work, stated that he appeared at the request of Mr. Solomon Lincoln, who was a member of the Historical Society, and who desired him to read to the committee a petition from the Historical Society, signed by Judge Devens, Judge Lowell and Mr. Solomon Lincoln, as follows:—

*To the Honorable House of Representatives of Massachusetts,  
on the Committee on Printing.*

GENTLEMEN :

The undersigned, a committee appointed by the Massachusetts Historical Society, respectfully urge that the writing



and printing of the Province Laws should be continued and completed. They do not find it possible to add to the reasons which were adduced when their publication was commenced. It would certainly be a very great misfortune when so valuable a work is so nearly terminated, if its progress should be delayed, or suspended, still more if it should be abandoned. When completed, the state is furnished in an intelligible and convenient form with the entire body of the legislation of the colony and province. The work in the five volumes, already published, is eminently satisfactory and your subscribers understand that the work for the remaining volumes is largely done. To have such a hiatus, as the omission of these volumes implies, would seriously diminish the value of those already published as well as in itself a great deficiency.

The juridical value of the publication is very great. Not only have the provincial statutes never been repealed entirely, but by the Constitution of Massachusetts they are made a part of its existing body of laws, excepting so far as they have been altered or repealed, or as they are repugnant to the rights and liberties contained in the Constitution.

An interesting report made March 20, 1861, by Hon. N. H. Whiting to the Massachusetts Senate, shows many instances where, in the determination of cases before the Court, the legislation of the province was of the highest importance. It would be easy to supplement these by many others, some of them recently occurring. Thus, in the recent case of the Watuppa Reservoir Co. *v.* Fall River, where the rights of the state in the so-called "great ponds" came in question the consideration of the Colonial and Provincial legislation became very important; it was equally so in the case of the Attorney-General *v.* Torr heard at Essex in November and since decided, where the respective rights of citizens, fishermen, and others, and of the City of Gloucester, in a long landing-place and beach were under discussion. Other recent instances could readily be added.

In conclusion, the subscribers respectfully urge that this publication of our ancient laws be fully and promptly completed and are

Respectfully your obedient servants,

CHAS. DEVENS,  
JOHN LOWELL,  
SOLOMON LINCOLN.

Ex-Governor Claflin wished to call the attention of the committee to the paper presented by Mr. Norcross and desired that it be read by the clerk. It was as follows :—

COMMONWEALTH OF MASSACHUSETTS.

*To the Honorable the Joint Committee on Printing of the Legislature:—*

The undersigned respectfully represent that they are a Committee appointed by the Council of the New England Historic Genealogical Society of Boston, for the purpose of representing to your Committee the importance of the publication of the Acts and Resolves of the Province of the Massachusetts Bay, and to urge the completion of the work under the charge and management of the present editor, Mr. Abner C. Goodell, jr.

Among many reasons that might be urged for the completion of this work, this committee ventures to call to your attention the following as among the most cogent :—

*First.* The work has been so far completed by the Commissioners, of whom Mr. Goodell is the survivor, that all the public acts from 1692 to 1780 have been already published.

*Second.* That the work has been done exhaustively and with critical exactness, and scholarly ability and the experience gained by the editor in his work has given him such advantage over all others, that it will be a great mistake to supplant him by another, even if a competent person can be found to undertake the completion of the work.

*Third.* That although during the first fifteen years the work progressed slowly, still it must be remembered that it was performed gratuitously, except the defraying of expenses actually incurred, and that the only argument for haste upon a work for which the public had waited for nearly a century would be that of economy which did not apply.

*Fourth.* That the materials for the remainder of the work are so far collected that it can be completed during the present year if the editor is provided with proper assistance.

*Fifth.* That by the Constitution of the Commonwealth many of these ancient Province Laws are continued in force, and that the Resolves now going through the press have never before been printed and are many of them the foundation of existing institutions and corporations.

Respectfully submitted in behalf of the New England Historic-Genealogical Society by

WILLIAM CLAFLIN.

ANDREW P. PEABODY.

HENRY AUSTIN WHITNEY.

HAMILTON ANDREWS HILL.

GRENVILLE H. NORCROSS.

*Committee.*

*Boston, February 16, 1889.*

Mr. Goodell, the commissioner on the laws, in answer to a question asked by one of the committee, stated that three years would be the shortest time within which the work could be completed, even if he could control the press. With a force of ten more copyists he could, in one year, finish the work critically down to 1780. He offered to furnish the books at \$3 per volume, paying all expenses himself, if the State would take 2000 copies, and at \$4 per volume if the state would take 1000 copies.

Mr. Claflin, continuing, stated that he had very little knowledge of the details of the work, but he earnestly hoped that it might be carried on to completion. Everything relating to the history of the state was precious, especially to the young men. Ever since the destruction of the Hancock house a spirit of inquiry has developed. That noble structure was allowed to be torn down because the idea of economy prevailed; but if that building could at the present day be replaced for three times the amount which was paid for it, people throughout the state would vote almost unanimously for its restoration. Since that time the Old South Meeting House has been preserved only through the enterprise and efforts and feeling of the people of this state, at a cost of \$500,000. The records which it is now proposed to print are important to almost every town and to many of the cities of the state. The foundations on which they rest were established by resolves which have never been printed, and which are liable to be destroyed in many different ways. It would seem to the speaker the poorest economy imaginable for the state to discontinue the publication of the work at this day on account of the expenditure which it would involve. Of its real value the legal profession knew best; but the speaker was sure that there was a deep general feeling that the work should be completed, and he would be very sorry to have left undone anything which would preserve to the

state a memorial of the past. In cities and towns throughout the Commonwealth people are hunting out every little thing associated with the past, preserving every old house, every old church, every old piece of furniture, whether of intrinsic value or not. And if it is considered by these people important to preserve such things, how much more important is it to preserve the laws on which the state is founded and on which the happiness and interests of the community rest to-day. This should be sufficient to dispose of any objection on the ground of economy. We do not care for the sake of a few thousand dollars, or of even a large sum, to throw away such valuable materials, or to expose them to danger of destruction or to leave them in such condition as to be inaccessible to citizens of the Commonwealth.

The next speaker was Mr. William H. Whitmore, who has been for two years past supervising for the city of Boston the publication of laws antedating those which Mr. Goodell has been editing. Mr. Whitmore stated that the city of Boston, which would have to pay two-fifths of the total expense incurred in the publication of the work on which he was engaged, did not take the same view in regard to antiquarian matters which seemed to be the policy of the committee before which he appeared, or of a member of that committee. Mr. O'Brien, who was an Irishman, a Democrat, a Catholic and an alien—at least, one who was born abroad—and who might be presumed to be less interested in these matters than some of those who bore American names, brought before the committee on printing of the city council, and succeeded in passing, an order to spend \$5,000 a year for the purpose of printing and preserving the records of the city of Boston. That work has been kept up by the city of Boston to the present time, and the witness knew of no expenditure of public money which had been so popular as that. The city of Boston is not so penurious as some places, and when it undertakes to publish books for the public good it supposes that their distribution to persons who ought to receive them is a proper and legitimate use of public money. The city thought that it was a work which ought to be printed, otherwise it would not have assumed the expense. In England the government and the universities go to the expense of printing books so large and costly that no private concern would undertake their publication. In this state the Massachusetts Historical Society has been doing the same thing. That society has printed matter which, perhaps, might be considered by this committee of less importance than the laws under discussion; yet to print those documents was felt by it to be a duty which it owed to its suc-



cessors and to posterity ; thus helping to preserve the history of the country. A few years ago the Massachusetts Historical Society printed Judge Sewall's diary in three volumes, and the librarian had informed the speaker that it was the most popular work ever printed, and that frequently it had been referred to by the Supreme Court for matters of fact which could not otherwise have been ascertained. The speaker claimed to be somewhat of an expert in the matter of preparing and editing such books ; he had had occasion to look into the way in which such records have been printed both in this and other States ; and he did not know of a book of any kind, published in any of the older States, which began to compare, in accuracy and finish, with the volumes which Mr. Goodell has edited. Such a work could not be done well if done hurriedly. No human brain could bear hurry and worry when comparing old manuscripts and type. Under the supervision of Dr. Shurtleff, the records of Massachusetts Colony and Plymouth Colony were published at a cost of about \$100,000, and yet that work was not nearly so valuable to the State as the printing of the acts and resolves of the Province of Massachusetts Bay.

Mr. Swan, private secretary to Colonel Carroll D. Wright, appeared before the committee at the request of Mr. Goodell, and with the approval of Colonel Wright. Mr. Swan stated that he was familiar with the kind of work on which Mr. Goodell was engaged, having spent a great deal of time in preparing the records of parishes, towns and counties, in which work he had received valuable aid from the matter prepared by Mr. Goodell. He thoroughly believed in the system which Mr. Goodell had adopted with reference to preserving the orthography and abbreviations employed in the original documents. It was not the province of a compiler to construe laws : that was a matter which should be left to the courts.

The Rev. D. G. Haskins said that the real point of importance was the educational value of such a work. He thought that it should be continued from patriotic motives. The government of Massachusetts was very remarkable. Our fathers came here to make an experiment in government, and for the details of that experiment it is desirable to refer to the records. There never was such an experiment in government since the world began. A church was established out of which the State evolved, and for a time the laws of Moses were the laws of this Commonwealth. The first step taken was to ordain that a man should not vote unless he was a member of the church. This system prevailed for sixty years, until the peo-

ple were deprived of their charter by the King. They then continued under a charter which was the first step towards breaking up the church and state. It is a curious fact that our ancestors in the old colonial and provincial laws adroitly contrived to introduce the same laws which were so offensive to England. Our knowledge as individuals is acquired by experience; a nation can become wise only when it profits by its experience. The experience of a nation is continuous. No one individual can know it himself, for no individual is as old as the nation. These colonial and provincial laws stand for the personification of the living state from the beginning; and how can legislation be successfully and intelligently enacted without a knowledge of what has gone before? The history of Massachusetts, when properly read and studied, is a history unsurpassed by that of any state; and yet we are objecting to-day to the expense necessary to put two or three lines of ornament upon a monument to our fathers! It is beneath us! There is in this city half a million dollars spent for public schools and a very large sum for public libraries. Shall we not secure the very ablest talent, as we have it in the present incumbent of this position, to make this work perfect?

Mr. M. P. Kennard, Professor Henry W. Haynes and Mr. Frank B. Sanborn also made remarks, urging strongly the advisability of continuing the editing and publishing of the work on which Mr. Goodell has been engaged; Professor Haynes stating that, during his travels and researches in Europe, he had everywhere found scholars who spoke in terms of the highest praise of the action of the general government in publishing and distributing, free of charge, the geological reports of the Hayden survey. Scientific men in all countries extolled the merits of the work. Professor Haynes would regret very much if the publication of the acts and resolves were discontinued.

[Stenographically reported by WALTER ROGERS & Co., Official Stenographers and Law Reporters, No. 31 Pemberton Square, Boston.]

## BRIEF STATEMENT OF THE WORK OF THE PROVINCE LAW COMMISSION.

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The report of the Committee on the Judiciary, April 21, 1865, signed by H. H. Coolidge, chairman, contained the following paragraph :—

"It is believed that among the numbers of our fellow-citizens who are interested in legal and historical studies many, in every way competent, could be found who, for the sake of benefiting the State, would, without expense to the Treasury, esteem it an honor to prepare a copy of these statutes for publication. That this should be properly done, annotations of the action of the king in council should be made showing what statutes were annulled and the length of time others were in operation, as well as reference to prior and subsequent statutes and the decisions of courts. In this way a most interesting and valuable legal and historical memorial would be secured and placed beyond the danger of accident or destruction." [*See accompanying pamphlet, pp. 36, 37.*]

In accordance with this suggestion, when Messrs. Ames and Goodell, the commissioners appointed in 1867, began their work of preparing materials for the press, they did it in the intervals of other labor and charged only sufficient to cover their estimated expenses for travel, stationery, etc. Although, in order to avoid the necessity of keeping account of numerous small items the charge was made as a per diem rate for services, the intention was to ask for nothing more than the expenses actually incurred on this work,—the average annual receipts from the State treasury, of each of the two commissioners for the period of fourteen years from the date of their first commission, being \$161.61.

No extra expense was incurred by the state on account of this slow progress, since the only other expense (except the clerk hire, which amounted to less than \$330, per year, in all), was, mainly, the printing, over which the commissioners had no control, it being done by the state printers. The general con-

tract with the state printers was at a certain fixed rate per thousand ems and could neither be increased nor diminished whether the work proceeded rapidly or slowly. So the delay made no difference in that respect.

During these fourteen years, Vols. 1, 2 and 3 appeared.

After December, 1879, Mr. Goodell, the junior commissioner, began to devote his whole time to the work and charged for his services at the rate of \$5.00 per day, or, to state it more exactly, \$150.00 per month.

From December, 1879, to May, 1888, a period of eight years and five months, Vols. 4 and 5 have appeared; also a third edition of Vol. 2 which got out of print; and Vol. 6 has been stereotyped to page 519 inclusive.

Vol. 6 is intended to embrace all the Private Acts from 1692 to the adoption of the Constitution, and the Resolves from 1692 to 1707, inclusive, being sixteen years of the whole period of eighty-nine years which the work covers. Material for Vol. 7 is also in course of preparation. Vol. 6 would have been finished, and the printing of Vol. 7 begun upon, during the past year, but for Mr. Goodell's protracted illness, which he fully explained to the committee.

Vol. 5, which contains 1,631 pages, is a work of immense labor, covering the whole Revolutionary period,—a field of legislation almost unexplored before the publication of this work. The notes, alone, which are in minion type, fill more than 578 pages in royal 8vo, and required in their preparation the most laborious and extensive research.

The work remaining to be done is the printing of the Private Acts and Resolves, the greater part of which have never been printed. It includes much important matter which still has the force of law, especially the establishment of precincts, parishes, districts and towns. Although 272 towns appear in the lists of representatives in the Journals of the House, before the adoption of the Constitution, only 135 were incorporated by *Acts*, and the rest were established by *Orders* or *Resolves*, which are still unprinted. The materials for this work have been collected and copied down to the year 1762, inclusive, and, with the aid of a sufficient force, in the course of one year, they can be completed down to 1780.

In the 519 pages of Vol. 6, already in type, there are no less than 155 Resolves or Orders establishing, or fixing the boundaries of precincts, parishes, districts and towns, and the boundary lines between Massachusetts and the adjacent colonies. Eight of these last relate to the boundary of Connecticut, two, of Rhode Island, and one, of New Hampshire. Besides these the same volume which was shown to the Committee and from which they have extracted the mutilated order given in their report, contains such important



matters as the fundamental privileges of the House of Representatives, the order founding Harvard College and the like.

The compensation of both commissioners, down to the beginning of last year, was \$18,779.65. During the same time the compensation of Lewis Hayden (and his substitute) the messenger who attends upon the Secretary of the Commonwealth, was \$23,398.87, or \$4,619.22 more than was paid to Mr. Ames and Mr. Goodell for their joint labors. The clerks in Mr. Goodell's employment, numbering from three to six persons, (never *eight*, as the committee have reported,) have, altogether, received during the same time only about \$100.00 per year more than was paid to that one messenger in the Secretary's Department.

It is no part of the editor's duty to compute in advance the number of volumes the work will make. Such a computation could be made, but it would require six months' labor to do it, on account of the difficulty of ascertaining what material shall appear in long primer, in which the body of the work is printed, and what shall appear in minion, the size of type used for the notes. The material collected for the Resolves, and notes is in manuscript and already comprises more than 150 reams. The rest must be got from the Court Records and Archives which have not been copied. In order to compute the number of pages of type these would make, would require not only the apportionment of long primer and minion, but the counting of the words in the whole material, or at least ascertaining the number of lines of each kind of type, and multiplying them by the average number of words in a line.

Mr. Goodell has offered to the committee to give bonds to complete the work in three years, provided he can have absolute control of the printing, and to furnish to the state the rest of the work in volumes of not less than 600 pages each, at \$3.00 or \$4.00 per volume, according to the size of the edition, in which computation he omits any charge for his own services which he offers gratuitously on those conditions. He also, on the same conditions, agrees that the work shall be done in every respect as well as it has been done heretofore, and that he will give to the state the stereotype plates of future volumes, properly boxed and labelled, free of any charge whatever. The price at which the volumes are now sold by the state is \$3.00 each; but the lowest price at the booksellers is, at least, 30% higher than that, and the demand for Volume 3 has been so great that it is already out of print.

All these facts were brought out at the hearing before the joint committee on printing,—a stenographic report of which is now going through the press, to be given to every member of the Legislature.





















